BOSTON UNIVERSITY

COLLEGE OF BUSINESS ADMINISTRATION

THESIS

SECTION 7A OF THE NATIONAL INDUSTRIAL RECOVERY ACT AS IT AFFECTS AMERICAN ORGANIZED LABOR

by

Charles Guarnaccia

(B. B. A. Boston University, 1933)

Submitted in Partial Fulfillment of
the Requirements for the Degree of

Master of Business Administration

1935

INDEX

I Section 7A of the National Industrial Recovery Act

as it affects American Organized Labor.

II Provisions Relative to Organization of Labor Under

Section 7A

III. Organization and Administration of Section 7A.

IV Benefits Acquired by Labor under Section 7A.

V Detriments to Organized Labor Acquired under Section 7A.

VI. Strikes and Section 7 A.

VII Enforcement of Section 7A

VIII. State Recovery Acts.

IX Conclusions

PREFACE

My interest in organized labor and its problems dates back many years. I never thought that some day that interest would find expression in a study of this nature. It was on Professor Sutcliffe's suggestion that my attention was first drawn to the subject of organized labor and Section 7 (a) of the National Industrial Recovery Act. From that suggestion has evolved this study on "Section 7 (a) of the National Industrial Recovery Act as it affects American Organized Labor."

Never did I realize the vastness of what seemed to be a very simple question; never did I realize how involved the government has become in labor problems--problems which were once left to the employer and employee to adjust between themselves. It is a subject of undue fascination and importance. It shows a new approach to the settlement of labor controversies, and the results of governmental intervention in the employer-employee relationship. On the success of the present method of approach of the problem, will depend what course will be followed in the future in bringing about industrial improvements, industrial peace, and a happier and fuller life for the laboring class and the masses.

It is the purpose of this inquiry to discuss the unsettled problems in the field of organized labor, their causes, and their possible solutions. Because most of these problems are occasioned more by economic reasons than social, this thesis treats of the economic consequences and affects of Section 7(a) on American organized labor.

Chapter I

INTRODUCTION

A. There has been an insistent demand for some legislation for some years.

There has been an insistent demand for some legislation for a good many years which would help solve a few of the economic problems confronting the American people. Many evils had sprung up because of the existence of these problems which had to be corrected.

Since the start of the depression in 1929, the evils that the N.I.R.A. corrects have been gaining in significance and intensity.

The slowing up of business resulted in increasing unemployment, and over capacity had resulted in vicious business practices. In the newspapers we read the following reports:

"Steel wages to be cut 10% October 1; Motor and Rubber firms reduce; U. S. Steel and Bethlehem lead move to fit pay to lower living costs that may affect millions; General Motors salary cut 10 to 20%; U. S. Rubber to pay on five day week; oil leaders plan action." [1]

1. N. Y. Herald Tribune, Wednesday, Sept. 23, 1931 Pages 1 & 2.

Chapter

WITHOUT LEGAL

A. There has been in the Atlantic States, for some le[illegible] for some years.

There has been an Indiana [illegible] for some isolation for a good many years which [illegible] solve a few of the economic problems confronting the American people. Any media has written up [illegible] in the experience of these groups have [illegible] in journals.

Since the visit of the delegates in 1[illegible], the evils that the [illegible] experience have been [illegible] in significance and intensity.

The slowing up of the [illegible] in decreasing unemployment, and over-crowding, are realized in [illegible] problems of [illegible]. In the [illegible] to read the following report:

"Best [illegible] to be [illegible] in work and Rubber Plant report. [illegible] Essen has [illegible] move to its [illegible] to form [illegible] costs that may [illegible] illness; [illegible] more [illegible] to [illegible] number to day or five day week; [illegible] plan adopted."

1. [illegible] Herald in [illegible], [illegible], [illegible] [illegible]

At the very outset President Hoover was fearful of the possible outcome of these indiscriminate wage cuts because the papers gave the report that "The Administration will continue to use its influence against wage cuts out of fear lest standards of living be reduced and buying power of consumers diminished. Economic advisers of the President are afraid, however, that the action of the steel companies may let down the bars to indiscriminate wage cutting, and against this result every effort will be made."[2]

However, next day we read that "The President has sought to make it clear from time to time that he had no thought of government interference with business in the matter of wages or otherwise but that he believed he had a duty in a national emergency to bring business leaders together for mutual assistance and the general welfare of the country when conference seemed likely to help."[3]

Of course, with the government taking that attitude without taking any decisive steps in combatting and avoiding such cuts, it is no wonder that we get reports that "Cuts in rail pay may follow act of steel industry--It is the anticipation of wage cuts on the railroads which is causing acute concern to labor leaders, rather than the actual cut by the steel corporation."[4]

And again we read "Rail wage cuts held preferable to freight rise."[5] Showing that it is very easy to make the

2. N. Y. Herald Tribune, Wednesday, Sept. 23, 1931 Page 2.
3. N. Y. Herald Tribune, Sept. 24, 1931. Page 2.
4. Ibid. Page 3.
5. Ibid. Page 3.

the most helpless agency stand for all the savings in industry.

"Whatever the reasons, the depression came upon us. It deepened despite the fact that leading business men, assembled in Washington at President Hoover's call, pledged themselves against wage reductions. The pledge was sincerely made, but it failed to reckon with several things.

"It failed to consider, for instance, a rising demand for price merchandise and the willingness of the minorities who can control prices in any industry to cater to this demand. Business men who hoped to maintain wage schedules soon found that competitors were cutting wages and grabbing the business. Suppliers began to feel the pressure for lower prices from those who bought their goods for remanufacture. Every wage cut meant fewer consumers which meant fewer sales which in turn, meant still fewer workmen. Business became a scramble for orders on almost any terms. The feeling being that any wages were better than no wages at all." [6.]

Following the same vein we read that Wm. R. Wood, Chairman of the House Appropriations Committee "said the wage cuts were 'inevitable', and that wage cuts would stimulate business and the movement of money, thereby increasing employment.

"In my opinion it is the best thing that can possibly happen to the wage earners themselves," said Mr. Wood.

And again we read that "there was a strong undercurrent of belief voiced by both Senators and House Members that reductions of wages were inevitable." [7.]

6. Nation's Business, June 1933. Pg. 26. Seeking the Route to Fair Wages. Paul Mc.Crea.
7. N. Y. Herald Tribune. Sept. 24, 1931. Page 2

the world helpless money school for all the [illegible] in the air.

"Wherever the [illegible], the aggression came upon us. We declared war on the last Imperial German man. Assembled in Washington at President Hoover's call, stacked themselves against bad conditions. The climate was miserably mild, cut it today, to return with several things.

"In trying to consider, for instance, a crashing demand for price manufacturers and the willingness of the industries who can control prices in any industry to cater to this demand. Business men who hoped to maintain were subsidies soon found that competitors were cutting wages and grabbing the business. Soon [illegible] began to feel the pressure for lower prices from those who bought their goods for resale or [illegible]. Every [illegible] lower consumers which meant lower sales which in turn, meant still lower wages. Business became a scramble for orders at almost any terms. The feeling being that any [illegible] better than no wages at all."

Following the [illegible] read that Mr. [illegible], Director of the Bureau Appropriations Committee "and the wage cuts were inevitable", and that wage cuts would stimulate business and the movement of money, thereby increasing employment.

"In my opinion it is the best thing that can possibly happen to the wage earners themselves," said Mr. Hood.

And again we read that "there was a strong undercurrent of belief voiced by both employers and labor leaders that relations of wages were inevitable."

6. Detroit Business, June 1932, p. 20. "Speaking on Wages to Fair Wages," [illegible].

7. [illegible] Herald Tribune, [illegible], p. [illegible].

We often hear that it is the banker who controls all industries, and it is he who controls and orders every move it makes. With the President and Congress showing the attitude it did toward wage reductions, is it any wonder that we read that "The Labor Department charged in the same day that 'the bankers' were 'hell-bent' for cutting wages, and since then, both Wm. N. Doak, Secretary of Labor and Robert P. Lamont, Secretary of Commerce have publicly urged resistance to the movement for wage reductions."[8]

Walter Lippmann in "Today and Tomorrow" says, "One of the curious illusions which the Administration has fostered for a long time now, is that until Monday afternoon it had managed to maintain wages. Now a man cannot live on a rate of pay. He lives on the actual money he receives, and the steel workers have been receiving about 40% less money"-----

"The purchasing power of American labor including labor protected by the strongest kind of union contract has been seriously reduced in the last two years."[9]

Wages were not the only factor to be affected by the depression. "As the depression deepened and people cut down sharply on buying, the demand for cotton goods was even more drastically curtailed. The result was that a mad scramble of competition and price cutting ensued, each mill trying to corral as big a volume of orders as possible in order to keep his plant running day and night, maintain employment, and

8. Ibid. Page 2.
9. N. Y. Herald Tribune, Sept. 24, 1931 Page 21

reduce operating costs. Thus, still longer hours and still lower wages became the order of the day. Many mills were operating steadily on weekly schedules of from 110 to 144 hours, exploiting women and children at night labor in the 'graveyard' shifts."[10.]

Further on we read "----but there have been other ailments----such as child labor, long hours, low wages---- which have aggravated the disease."[11.]

Frances Perkins, Secretary of Labor writes, "Connecticut permits a 55 hour week, but the Commission reports cases of children working 80 hours or more a week; that hours are often 60 or 80 a week, including Sunday. He reports that employers punch time cards for the legal number of hours and then require overtime;--"[12.]

These deplorable conditions cannot help but bring to the fore the problem of the sweatshops, since industries under such conditions are sweatshops. Miss Perkins says that "Sweatshops are comparatively new in Massachusetts, but an investigation by the Commission in February and March a year ago showed rates as low as ten cents--in one case five cents--an hour paid to girl workers in Fall River. Of 1,616 employees in 13 plants manufacturing women's underwear and women's and children's dresses, half earned less than $8.13 a week, 71 % earned less than $10. Only 3% earned $15.00 or more.

10. Goodhousekeeping, Oct. 1933. Pg. 16. Elizabeth Frazer-King Cotton Heads the Parade.
11. Ibid. Page 17.
12. Nation's Business, July, 1933. Pg. 24. Why We Need a Minimum Wage Hour. Francis Perkins

"New York has also seen an increase in sweatshop conditions. For example, in men's clothing shops, employers offered a wage of $7 a week for cleaning men's pants. After the first few weeks, however, payment was made by the piece at a rate of one-half cent for each pair cleaned.---As it takes almost five minutes to clean one pair, this means, providing the work comes in steadily, a wage of $2.88 a week for a 48 hour week."[13]

As to real sweatshop conditions--hours, pay and environment--we have a typical picture painted in the following report. "Social workers, investigating complaints against these operators have found women and girls working a week of 60 hours for pay checks of less than two dollars. Wages of two cents an hour have been reported earned in factories which one of the workers described like this:

> "The windows were below the level of the pavement, letting in dust and dirt which was the air we breathed. On one side of the building was a parking place for automobiles. The exhaust from these cars threw out monoxide gas and frequently during the day girls complained of the strong odor and being sick. We worked in artificial light all day.'"[14]

Conditions such as this are hard to imagine, but one may well realize that where profits alone are the goal, a man would stoop to anything. "It was a horrible place--a dim, ell-shaped, stifling hot loft. The windows were streaked with dirt, and there were none too many. Rows of long

13. Nation's Business, July, 1933. Pg. 24. Why We Need A Minimum Wage Law. Francis Perkins
14. Nation's Business, June, 1933. Pg. 26. Seeking the Route to Fair Wages. Paul Mc Crea.

tables held the roaring power machines, at which the bending, rushing girls sat, close together working in feverish haste. The girls near the windows were in fairly good light. Those behind them toiled, with tired eyes and strained faces, in murky dimness. Above each two girls hung an electric light, but not one was lit."[15]

The article continues, "Filling the room was a sickening stench. At first I was puzzled. Why----sweat, of course! It was a hot summer day. The loft had low ceilings and no fans, and it was crowded with hard-driven workers. But I soon realized that the odor was not all that of sweat. I saw a door standing ajar and peered in. Ah----a stinking, filthy toilet with one seat, and that indescribably dirty. No toilet paper. A greasy old hand basin bearing one drinking glass. The smell of this toilet, together with the reek of human sweat, was making me faint.

"I looked about. Suppose a girl operator should faint or be injured or become ill? Where?---Ah, yes, the 'Ladies Room.' It was a small grimy corner screened off by chicken wire. The girls' coats and hats almost filled it. But in one corner leaned a revolting old couch with cockroaches running over it---."[16]

With unemployment of able bodied adults running into the millions we read that "While the total number of children employed thruout the country has dropped, along with general

15. Goodhousekeeping, Sept. 1933. Pg. 185. Vera Connolly, Paid in Sweat.
16. Ibid. Page 185.

decline in employment, the number of 14 and 15 year old children working in South Carolina in non-agricultural occupations, mostly in textile mills, increased 29% between 1920 and 1930. In the clothing industry the influx of young people is still more shocking-- in Connecticut and Rhode Island the number of workers 16 and 17 years of age increased 123% and 283% respectively in Pennsylvania 62% and in Massachusetts 52%."[17]

And in the same article we learn that "Nine states, for instance, still have loopholes in their laws which permit children under 14 years to work in factories."[18]

There is no doubt that there has always been the existence of a war-like spirit between employer-employee relations. The fact and its causes are best expressed by one who is and has been close to labor groups, Donald Richberg. In a radio address to help enlist employers and consumers under the blue eagle, he said, "Those who view labor organizations only in this light (fear of becoming too powerful) fear greatly the enforcement of Section 7(a) of the N.I.R.A. Moved by this fear, they resent the participation of organized labor in the councils of the Recovery Administration. They think that the expansion of labor organizations should be discouraged and not be stimulated. The causes of these fears and resentments can easily be understood; they arise out of a long period of bitter conflict between associations of employers and employees, organized and operated on both

17. Current History 38:569, Aug., 1933 Dorothy Dunbar Bromley. The New Move to End Child Labor.
18. Ibid. Page 569.

sides for the purpose of compelling the other side to accept the terms of peace imposed by the victor at the end of a civil war."[19]

It has been American business conditions which have made the National Industrial Recovery Act necessary. Many basic American industries were hampered by over-expansion and disorganization.

The coal industry was greatly stimulated by "Railroad builders, pushing into new territories where coal lands were available and anxious to increase the tonnage of their lines, offered an incentive for the development of additional mining properties. Car shortages on some transportation lines encouraged the opening up of more mines on roads better equipped with rolling stock."[20]

"Recurring labor troubles in the Northern and Mid-western fields gave further impetus to exploitations of coal productions south of the Ohio River, where organized labor had never succeeded in getting a firm foothold. The World War also stimulated capacity in practically all fields east of the Mississippi River, and strikes in the years immediately following permitted Southern Mines to make further gains at the expense of their Northern Competitors."[21]

"Such a wide distribution of coal-bearing lands were an inevitable invitation to diffusion of ownership and to the opening up of large numbers of mines. In the years following

19. N. Y. Herald Tribune, Aug., 30, 1933. Pg. 2
20. N. Y. Times, Sept. 24, 1933. Sect 8, pg. 3. Sidney A. Hule, Editor Coal Age
21. Ibid. Page 8.

aidus for the purpose of comparing the labor cost to secure the terms of these concessions by the present or the end of a civil war."[19]

It was these important considerations which gave rise to the National Industrial Recovery Act originally. Many Canadian industries were reorganized by Dominion-sponsored rationalization.

The coal industry was thereby originated by "Maritime initiative, pressing into new territories the coal industry's available and anxious to increase the tonnage of their lines, offered an incentive for the development of additional mining properties. One shipper on some transportation lines encouraged the opening up of more mines or road better equipped with rolling stock."[20]

"Assuming labor troubles in the northern and Nova-Scotian fields gave further impetus to exploitation of coal production south of the Ohio River, where organized labor has never succeeded in putting a firm foothold. The North was also stimulated economically in especially all fields east of the Mississippi River, and within the years immediately following the period Southern mines to make further gains at the expense of their Northern competitors."[21]

"Since a wide distribution of coal-bearing lands made an investment in railroad facilities or industrial and to the opening up of large-scale of mines. In the years following

19. [illegible]
20. [illegible]
21. [illegible]

the Civil War this invitation was made still more attractive by the expanding industrial demand for coal which, despite year-to-year fluctuations, approximately doubled every decade until 1910."[22]

"In textiles the chaos is indescribable. Cotton mills have duplicated an already over-built investment in New England by spreading to the South, largely on the false economy of low wages. They have encumbered their structures with mill agents, commission men, brokers, converters, outside bleacheries, and finishing plants. They have been forced constantly to add new equipment for ephemeral style purposes instead of sticking to the economies of standard lines. They have been torpedoed from the depths by the widespread practice of buying up bankrupt mills at 10 cents on the dollar and the consequent flooding of the market with goods bearing no capital cost."[23]

The textile industry has been hard hit for some time and "For a decade it, the cotton textile industry, has had no prosperity. It did not share in the profits in the big years of the late 1920's. Except for a faint spirit in 1927, conditions have been continuously bad. King Cotton has been a sick giant, an afflicted Titan, suffering from a variety of grievous maladies. The name of this major complaint is over production,----And since 1929 the patient has been growing steadily worse."[24]

The "American shoe factories are equipped to turn out

22. N. Y. Times, Sept. 24, 1933. Sect. 8, pg. 3. Sidney A. Hule, Editor. Coal Age.
23. Harpers Magazine 161:643. Nov., 1930. Stuart Chase
24. Goodhousekeeping, Oct., 1933. Pg. 17, Elizabeth Fraser King Cotton Heads the Parade.

almost 900,000,000 pairs of shoes a year. At present we buy almost 300,000,000 pairs--2½ pairs per capita. Yet if we doubled shoe consumption--gorging the great American foot as it were--one-third of the present shoe factory equipment would still be idle. There are more shoe factories than we have any conceivable need for, either here or in Utopia."[25.]

And as for "American oil wells (they) are capable of producing 5,000,000 barrels a day, against a market demand of 4,000,000 barrels. Better gasoline cracking methods will make it worse. Oil in storage mounts steadily and now stands at over 300,000,000 barrels. Meanwhile, California wells are merrily shooting into space 75 million cubic feet of gas a day, enough to supply the whole city of San Francisco. Due to over-production, fuel oil,is dumped at low prices 'far below its equivalent value of coal in thermal basis.' This drives out coal, making for over-production in that unhappy industry and wastes potential gasoline."[26.]

"The final costs of (this) irregular production and employment is paid by the workers themselves, and by their wives and children.--(so that) here in the last analysis, is the unpardonable price that people must pay when their lives are at the mercy of a disorganized industry."[27.]

It wasn't only the overexpansion and disorganization of industry which had disrupted economic conditions. Mechanization of industry had made unemployment a permanent feature unless working hours were drastically reduced.

25. Harpers Magazine, 16:643. Nov., 1930. Stuart Chase
26. Ibid. 161:646.
27. Survey, 63:658. March 1, 1930. Beulah Amidon.

"The machines are too efficient. Consumption could not keep up with production--expecially when the increasing efficiency of the machine progressively required fewer and fewer men to operate it--making it impossible for more and more men to buy the things that were being made. Labor saving machinery--first hailed as the laboring man's release from drudgery--had become labor-displacing machinery with a vengeance."[28]

"The N.R.A. is the outgrowth of necessity. During Civil War days we required 80% of our labor to produce the necessities of life. Today we need for this purpose but 33% of our labor, based upon our customary working hours. This is what machinery, science, electricity, have done for us."[29]

"Official findings of engineers assure us that the Nation's power plants, machines, and factories can be so efficient that all need physical goods can be produced with a startlingly short working week, perhaps even less than twenty hours. The recent Society of Industrial Engineers' report concludes that the present productive power of our economic system could be multiplied eighty fold--if we put it all to work!"[30]

And "In spite of our having 20,000,000 more people, the needs of the country are fully supplied in the 7% fewer workers than we needed in 1919.

"What is the meaning of this? Labor saving machinery has brought it about.---It is true that since the first introduction of machinery into industry, this process has been

28. Goodhousekeeping. Oct., 1933. Pg. 4. Wm. Fredrick Bigelow, Editor
29. Hide & Leather, Oct. 7, 1933. Pg. 34. A. H. Genting.
30. The Scholastic, 23:3. Oct. 7, 1933. How Can "Purchasing Power" be Distributed? Harold Rugg. Ph. D. Pg. 14.

"The machines are too efficient. Consumers could not keep up with production--especially when the increased efficiency of the machine progressively required fewer and fewer men to operate it--making it impossible for more and more men to buy the things that were being made. Labor saving machinery--first hailed as the laboring man's release from drudgery--had become labor-displacing machinery with a vengeance."[28]

"The N.R.A. is the outgrowth of necessity. During Civil War days we devoted 80% of our labor to produce the necessities of life. Today we need for this purpose but 33% of our labor, based upon our customary working hours. This is what machinery, science, electricity, have done for us."[29]

"Official findings of engineers assure us that the Nation's power plants, machines, and factories can be so efficient that all need physical goods can be produced with a startlingly short working week, perhaps even less than twenty hours. The recent society of industrial Engineers' report concludes that the present productive power of our economic system could be multiplied eighty fold--if we put it all to work!"[30]

And "In spite of our having 20,000,000 more people, the needs of the country are fully supplied in the 1/3 fewer workers than we needed in 1919.

"What is the meaning of this? Labor saving machinery has brought it about.---It is true that since the first introduction of machinery into industry, this process has been

28. Woodhousekeeping. Oct., 1933. Mrs. E. W. Frederick Stelos, Editor
29. Mike Lieberman, Oct. 7, 1933. Mr. Ja. A. Manning.
30. The Scholastic. 23.6. Oct. 7, 1933. "How Can Consumers Power" be distributed? Nicole Roy. . . . H. . . . .

going on."[31]

"The United States Government has recently published some very remarkable figures in this connection. Between 1919 and 1929 the total quantity of goods manufactured increased by 58.5%. But the number of persons employed in the factories decreased by 5%. In the first year after the war 9,000,000 persons were earning wages in American factories. Ten years later their numbers had fallen to 8,550,000. If there had been no development of machine power, 14,266,000 persons would be required to turn out the goods produced in 1929. As it was the necessary labor force, instead of being nearly six millions more, was nearly half a million less than before."[32]

In the four basic industries-mining, agriculture, manufacturing, and railway transportation--the number of employees has declined nearly 3,000,000 in the last ten years. While this decline was going on, production increased thirty-two percent, according to the United States Bureau of Labor Statistics, but payrolls increased only three per cent. Behind this discrepancy is the drama of bread lines and empty larders."[33]

B. History of the N.I.R.A.

Is it any wonder then, with conditions in such a deplorable state that the American people called for a President who would do something about it. The election in the fall of 1932 was a clear-cut contest between "rugged individualism" represented by Hoover, and the "New Deal" represented by Roosevelt. The "New Deal" won.

31. American Labor Legislation Review, 18:91-2 March, 1928, J.H. Davis, Secretary of Labor. "Labor Saving Machinery and Unemployment."
32. Spectator, London. W. T. Murch. Jan. 3, 1931
33. Outlook, 156:414, Nov. 12, 1930, Louis Stark

sations on."

"In spite of the depression has recently published some very remarkable figures in this connection. Between 1921 and 1929 the total number of people gainfully employed increased by 54.8%. But the number of persons employed in the industries decreased by 2%. In the first year after the war 4,000,000 persons were employed in manufacturing industries. 10 years later their numbers had fallen to 3,800,000. If there had been no development of machine power, 14,250,000 persons would be required to turn out the goods produced in 1929. As it was the industries got lower income, instead of being nearly six millions more, with nearly half a million less than before."[22]

In the four basic industries--mining, agriculture, manufacture, and railway transport--the number of employees has declined nearly 2,000,000 in the last ten years. While this decline was going on, production increased 10-20 percent, according to the United States Bureau of Labor Statistics. It actually increased only some ten percent. Behind this discrepancy is the issue of hours and simply labors."[23]

B. History of the N.I.R.A.

Is it any wonder then, with conditions in such a deplorable state that the American people called for a President who would do something about it. The election in the fall of 1932 was a clear-cut contest between "rugged individualism" represented by Hoover, and the "New Deal" represented by Roosevelt. The "New Deal" won.

21. American Labor Legislation Review, December, 1932, p.
Davis, Secretary of Labor. Address delivering Hoover's Administration.
22. Operation, London. . . . Smith. Ann. Dec. 1932.
23. Ibid. Ibid. Ibid. Ibid. Ibid. Ibid. Ibid.

"Perhaps the most remarkable and significant of all the acts of the "New Deal" is the National Industrial Recovery Act. It puts the Government into business. It gives unprecedented authority to the President to regulate trade, industry, hours of labor, profits, and prices. In this respect, it is the most amazing piece of legislation in the history of our country."[34]

"The measure to 'control industry' or what President Roosevelt calls 'partnership in planning'--began not with the President, but wholly as an individual idea of Senator Black of Alabama."[35]

"Senator Black's original measure was a crude, arbitrary limitation of hours of labor to thirty a week."[36]

It was from that point that Miss Perkins took up the idea,elaborated on it,and "The Administration's bill for permanent wages and hours of work (was) recommended to Congress---."[37]

The name of this bill is "A Bill to Prevent Interstate Commerce in Certain Commodities and Articles Produced or Manufactured in Industrial Activities and Under Conditions which Produce Unfair Competition and Restraint of Trade and are Injurious to the General Welfare, and to Regulate Interstate Transportation, and for Other Purposes."[38]

34. A Primer of the New Deal, By E. E. Lewis. American Education Press, Inc., N.Y. 1933. Page 14
35. N. Y. Herald Tribune, Thurs., April 20, 1933
36. Ibid. Page 2.
37. N. Y. Herald,"Planned Industry Advocated by Roosevelt in His Campaign." By Mark Sullivan. May 10, 1933. Pg. 2
38. Ibid. Page 2.

"Perhaps the most remarkable and significant of all the acts of the 'New Deal' is the National Industrial Recovery Act. It puts the Government into business. It gives unprecedented authority to the President to regulate trade, industry, hours of labor, profits, and prices. In this respect, it is the most amazing piece of legislation in the history of one country."[24]

"The measure to 'control industry' on what President Roosevelt calls 'practically a planning'--been not with the President, but wholly as an individual idea of Senator Black of Alabama."[25]

"Senator Black's original measure was a simple, brief, thirty limitation of hours of labor to thirty a week."[26]

It was from that point that Mr. Roosevelt took up the idea, elaborated on it, and "The Administration's bill for permanent recovery was one hundred and twenty (120) recommended to Congress---."[27]

The gist of this bill is "A bill to protect interstate commerce in certain commodities and articles produced or manufactured in industrial activities and under conditions which produce unfair competition and practices of trade and are injurious to the general welfare, and to regulate interstate transportation, and for other purposes."[28]

24. A Primer of the New Deal, T. R. B. Davis. American Education Press, Inc., Ill. Bank. Page 14
25. N. Y. Herald Tribune, Times, April 20, 1933
26. Ibid. Page 2.
27. G. Z. Herald, "Planned Industry Forced by Roosevelt is Dangerous." By Mark Sullivan. May 10, 1933. Pg. 4
28. Ibid. Page 2.

Since the "Perkins Plan" was primarily to affect labor we read that "A threat of an uprising by wage earners and a demand that industry be allowed to run its own affairs were put before the House Labor Committee today in an effort to bring modification of the plan for Federal Control of wages, production and hours of work recommended by Miss Francis Perkins, Secretary of Labor.

"This threat was made by Matthew Woll, vice-president of the American Federation of Labor, who said that if male workers withdrew their opposition to minimun wage legislation they may well understand that they have again become serfs, not under domination of employers as such, but to the nation."

"If that be the purpose of this proposed legislation," he added---"labor might well consider massing its power and influence solely in the political and revolutionary field."[39]

He restated organized labor's outright opposition to Federal establishment of a minimum wage.

Ogden Mills, staunch Republican that he is, and a great believer in "rugged individualism", in commenting on the Perkins' Bill says, "In the so called Labor Control Bill, fostered by the Secretary of Labor, the Secretary is to become the dictator of the entire industrial organization of the United States."[40]

And again, "In this land where government was conceived in liberty and where freedom, individual enterprise and

39. Herald Tribune, Friday, April 28, 1933. Pg. 4
40. Herald Tribune, Saturday, April, 29, 1933. Pg. 23

Since the "Perkins Plan" was primarily an attack upon we read that "A threat of an unreliving [illegible] and a demand that industry be allowed to run its own affairs [illegible] before the Union labor committee today in an effort to brief modification of the plan formulated [illegible] tool of war, production and [illegible] of work [illegible] by this [illegible] action, secretary of labor.

"This threat was made by Mr. Drew Pearl, vice-president of the American Federation of Labor, who said that if male workers without their union officers to return work in [illegible] tion they may well understand that they have [illegible] serve, not under domination of employers as seen, but to the nation."

"If there be the purpose of this proposed legislation, be [illegible] labor [illegible] well [illegible] day [illegible] its [illegible] and [illegible] [illegible] a political and revolutionary [illegible].

The [illegible] organized labor's [illegible] opposition to federal establishment of a [illegible] wage.

Under this, [illegible] Samuel Gompers [illegible], and a great believer in "[illegible] industrialism", in [illegible] on the [illegible] said, "In the [illegible] labor department [illegible] fostered by the secretary of labor, the secretary is to become the [illegible] of the entire industrial organization of the United States."

And again, "In this land where government was conceived in liberty and where freedom, individual enterprise and

[illegible]

[illegible]

initiative have built up the most highly developed industry and productive nation in the world, we are now to set up an immense bureaucracy. The American working man and the American business man are to become the creatures of a small group of bureaucrats thousands of miles away and of their countless agents scattered in home and factory throughout the country.

"Industry's demand for freedom to run its own business came from Henry I Harriman, President of the Chamber of Commerce of the United States----

"Like other manufacturers, he implied doubt as to the constitutionality of the Perkins plan and asked that industries be left to bring about the proposed reforms through agreements among themselves, in conference with labor and the government.

"The parties best equipped to solve the problems of industry are the trade associations within each industry," he said. "If Trade Associations in conference with labor and the government were permitted to promulgate fair rules for industry--which would include limitations upon the hours of operations, according to the demand for labor in the industry, minimum pay and possible minimum prices--the most serious economic problems which confront the nation--would quickly vanish."[41.]

Before the House Labor Committee an industrialist and a labor leader took opposing sides on the question of minimum wage legislation.

41. N. Y. Herald Tribune, Friday, April 28, 1933. Page 4

Wm. Green, president of the American Federation of Labor said that "he spoke for the labor groups executive council." "He said that it would be "a most 'dangerous experiment'."

"Such a provision," Mr. Green said of the minimum wage proposal, "would tend to injure the right of labor to improve their standard of living, increase their wages and their social position through the exercise of their economic power of collective bargaining."[42.]

On the opposite side of the fence stood Mr. Gerard Swope, president of the General Electric Company, who advocated minimum wage legislation.

"His advocacy of Federal authority to prescribe minimum wages was due, he said, to the realization of the great protection it would afford to unorganized and unskilled labor. He reminded the Committee that the A. F. of L. represented only a part of labor."[43.]

Mark Sullivan in his column in the Herald Tribune gives most of the credit for writing of the N.I.R.A. to Senator Wagner. He says "From the proposals of the Chamber of Commerce and of the Secretary of Labor Perkins, and from other proposals from various sources, especially a bill written by Senator Wagner, of New York, Mr. Roosevelt is expected to evolve one which he will present to Congress as his own."[44.]

And on the same page of the Herald Tribune we read that "If the President should accept the bill as Senator Wagner

42. N. Y. Herald Tribune, Thurs. April 27, 1933. Page 32.
43. Ibid. Page 32.
44. Herald Tribune, Wed., May 10, 1933. Page 2.

and others of his advisers have framed it, there would be little delay in laying it before Congress."[45]

The aims of this National Industrial Recovery Act are best told by President Roosevelt. In his radio address to the nation on Sunday, May 7, 1933, he says that "Well considered and conservative measures will likewise be proposed which will attempt to give to the industrial workers of the country a more fair wage return, prevent cut-throat competition and unduly long hours for labor, and at the same time to encourage each industry to prevent over-production."[46]

The N.I.R.A. bill is called "A bill to encourage industrial recovery, to foster fair competition, and to provide for the construction of certain useful purposes, public works, and for other purposes."[47]

In order to carry out the full intent of the above bill, the "Policy of Congress (was) declared to be:

1. To remove obstruction to commerce.

2. To promote cooperative action among trade groups.

3. To eliminate unfair competitive practices.

4. To utilize more fully the productive capacity of industry.

5. To avoid undue restrictions of production (except as may be temporarily required.)

6. To increase the purchasing power of consumers.

45. Ibid. Page 2.
46. N. Y. Herald Tribune Mon. May 8, 1933. Pg. 2.
47. Ibid. Thurs. May 18, 1933. Pg. 6.

7. To reduce unemployment.

8. To improve standards of labor.

9. To rehabilitate industry and to conserve natural resources."[48]

"The basic idea behind the N.R.A. plans is not only to put people back to work but to put them to work at fair wages and to keep them steadily employed at such wages. This would mean abundant and constant purchasing power."[49]

The N.I.R.A. law was the result of suggestions and contributions from many individuals and interests. General Johnson, Administrator of the N.I.R.A., has expressed the above fact in his own inimitable way. He says, "The fact is that nobody ever writes a law like this. It is the product of many minds. As I have shown, something very like Title I was suggested after the Armistice, and the experience of the War Industries Board was heavily drawn upon. The Principles of Title II had been advanced by hundreds of persons. No fewer than twenty people participated in the drafting of N.I.R.A. It incorporates specific suggestions from the American Federation of Labor, the U.S. Chamber of Commerce, the American Manufacturers' Association, and dozens of individuals. It was considerably amended in Congress. It was the product of a forum for general discussion. It was what Labor wanted and Industry cried for, and if I were asked to produce the sinister group that dictated it, I would have to

48. Outline of the "New Deal" Legislation of 1933. By Howard S. Piquet, Ph. D. Mc Graw Hill Book Co., Inc. N. Y., 1933. Page 7
49. A Primer of the New Deal. By E. E. Lewis, Page 17 American Education Press, Inc., N. Y., 1933.

name, as a part of it, some of the ruggedest industrial individuals in the United States."[50]

As early as April, 1933, when bills were being suggested and the N.R.A. was in the evolutionary stage, we find William Green, President of the A. F. of L., appearing as witness before the House Labor Committee hearing on the Black-Connery Bill advocating "An amendment guaranteeing to labor everywhere the right to organize and to bargain collectively with their employees."[51] This was probably the suggestion from which Section 7(a) of the N.I.R.A. bill became a reality.

C. Statements Relative to the N.I.R.A. Bill.

The National Industrial Recovery Act, (Public No. 67, 73 Congress) was finally signed on June 16, 1933. The President then said:

"The law I have just signed was passed to put people to work--to let them buy more of the products of farms and factories and start our business at a living rate again. This task is in two stages: first, to get many hundreds of thousands of the unemployed back on the pay roll by snowfall, and second, to plan for a better future for the longer pull. While we shall not neglect the second, the first stage is an emergency job. It has the right of way."[52]

President Roosevelt in his second book "On Our Way" stated in referring to the N.I.R.A. that "Its goal is the assurance of a reasonable profit to industry and a living

50. The Saturday Evening Post, June 30, 1934. Background of N.R.A. By General Hugh Johnson, Pg. 87.
51. Herald Tribune, April 27, 1933. Pg. 32
52. The Saturday Evening Post, June 30, 1934. Background of N.R.A. By General Hugh S. Johnson. Pg. 87

wage for labor, with the elimination of the piratical methods and practices which have not only harassed honest business, but also contributed to the ills of labor."[53]

R. L. Duffus, writing for the New York Times, says, "The N.R.A. is trying to bring into existence in clauses written into its 'blanket' and specific 'codes' a new charter for labor."[54]

This is best expressed in the President's statement of June 16, 1933 made at the signing of the N.R.A. He said, "This law is also a challenge to labor. Workers too are here given a new charter of rights long sought and hitherto denied."[55]

Miss Frances Perkins, Secretary of Labor, speaking before the Columbia University Institute of Arts and Sciences on February 12, 1934 said that "The aim of the N.R.A.---is to bring about a transition from supreme employer control to a control in which the employer, the employee and the public work in partnership with the government.

"This transition," she said, "should enable us to develop higher standards for the life of the American people. These will give satisfaction not only to those who own the factories, mines, warehouses and stores, but also to those who work with their hands, their heads, and invest their labor and their savings in the industries to which they are attached. The permanent and stable spiritual satisfaction

53. On Our Way, By Franklin D. Roosevelt, Pg. 97. The John Day Co. N. Y., 1934.
54. N. Y. Times, Aug. 5, 1933. Pg. 1, Section 9.
55. A Handbook of the N.R.A., By Mayers 2nd Edition Federal Codes, Inc., N. Y. 1934. Page. 82.

which we in America have been seeking these many years may lie in this.

"Think what a civilization providing real substantial leisure for all the people would mean. It would provide an opportunity for healthful recreation and amusement, travel, improvement of mind and building up of interests, yielding a profit in personal satisfaction and perhaps even in a financial way. It would make possible more community meetings and greater participation in civic, social, and political life."[56.]

That is a rather idealistic aim for the N.R.A., but it is best to aim high and hit low, than to aim low and never hit the mark.

A few weeks before the N.I.R.A. was passed by Congress, Mr. Gerard Swope, President of the General Electric Company, speaking before the policies division of the National Electrical Manufacturers' Association, "Appealed--for a whole hearted consideration of the National Recovery Act now before Congress.--- (He) emphasized the opportunity offered to the electrical manufacturing industry to lead in the movement to cooperate with the government in restoring unemployed, estimated at more than 10,000,000, to jobs."

He makes it very plain by telling these men that "If industry does not see its opportunity and embrace it, it will be done from without. The alternative therefore, is not, shall it be done, but by whom shall it be done--by

56. N. Y. Herald Tribune, Feb. 1934, Pg. 8.

the government with its necessarily more rigid procedure and therefore less efficiency, or shall it be done by industry itself, which knows its problems intimately, taking the initiative and leadership, with the cooperation of the government to see that the public interest is protected."[57]

Mr. Swope speaks like a prophet, for late in 1934, industry saw the futility of their trying to run things their own way and came around with a proposal to cooperate with the government.

D. Policies Under the N.I.R.A.

The policies under the N.I.R.A. then are the following:

"1. That industry should be allowed to organize under the direction of the government to prevent cut-throat competition.

2. That similar organization of labor should receive the support of the government.

3. That minimum wage scales must be maintained in this country to prevent sweat-shop conditions.

4. That minimum hours must be set to prevent modern machinery from pauperizing millions of our workers."[58]

And in carrying out this broad field of objectives we shall have.

"5. The creation of a New Economic Order

57. N. Y. Herald Tribune, Feb. 1934, Pg. 8.
58. Debate Handbook, Presidential Powers, By J. Weston Walsh. Briefs, Pg. 8. The Debates Inf. Bureau, Portland, Me., 1933. (Series No. A-7 and A-9)

or Constitution."[59]

As to the policies 1 and 2 above, Mark Sullivan in his column in the Herald Tribune writes, "The central purpose in the beginning was to permit the units within one industry to come together in ways which heretofore were forbidden by the Anti-trust Laws." And further on in the same article he says, "Among other changes it was proposed that since N.R.A. would permit employers within an industry to act as a unit, employees should have the same privilege."[60]

E. Section 7A of the N.I.R.A.

Section 7(a) of the National Industrial Recovery Act, the section that applies to labor, was "Written into the law at organized labor's demand."[61]

"Every code of fair competition, agreement and license approved, prescribed, or issued under this title shall contain the following conditions: (1) That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; (2) that no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing,

59. N. Y. Herald Tribune, July 10, 1934, Pg. 2.
60. N. Y. Herald Tribune, Aug. 21, 1933, Pg. 2.
61. N. Y. Herald Tribune, Aug. 24, 1933, Pg. 6.

or assisting a labor organization of his own choosing; and (3) that employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President."[62.]

This action has been the bone of contention on the part of Capital and Labor, with the government acting in the capacity of a neutralizer. Each group, including the government has interpreted it in different lights, but labor and industry have usually read into it conditions to benefit their interests to the detriment of the other. Industry has been clamoring for an interpretation. The A. F. of L. and members of the Labor Advisory Board "Had feared that any statement of 'interpretation' of Section 7(a) would imply some weakening of it."[63.]

The President of the United States has tried to act in the part of a pacifier and interpreter, but not to much avail. In his statement announcing the settlement of the automobile labor controversy, he said, "After many days of conferring with regard to the principles of employment in the automobile industry the following statement covers the fundamentals:

1. Reduced to plain language, Section 7(a) of N.R.A. means:

(a) Employers have the right to organize into a group or groups.

(b) When such group or groups are organized

62. Labor Relations Under the Recovery Act. Tead & Metcalf Pg. 242 Mc Graw Hill Book Co., Inc., N. Y. 1933
63. N. Y. Herald Tribune, Aug. 24, 1933. Pages 1 and 6.

they can choose representatives by free choice and such representatives must be received collectively and thereby seek to straighten out disputes and improve conditions of employment.

(c) Discriminations against employees because of their labor affiliations or for any other unfair or unjust reasons is barred."[64.]

We later read that "President Roosevelt meanwhile, made it plain today that he regarded section 7(a), of the N.I.R.A. as meaning just what it said, and that he felt its provisions should be borne in mind in the framing of the new labor legislation.----Only a small minority in the country seems not to understand plain English, he remarked, holding that free choice of representation as outlined under 7(a) means that corporations, unions, or individual representatives could be chosen."[65.]

Labor's understanding of Section 7(a) was distinctly one of compulsion. "The Labor group have been insisting to him (General Johnson) that it commits the government to outright unionization of industry. Most employers deny that it meant anything of the sort."[66.]

Walter Lippmann, in his column for the Herald Tribune, writes that "As understood by most labor leaders, this law is supposed to mean that the Federal government must compel

64. N. Y. Herald Tribune, March 26, 1934. Page 1.
65. N. Y. Herald Tribune, June 16, 1934. Page 12.
66. N. Y. Herald Tribune, Aug. 24, 1933. Page 6.

industrial managers to bargain collectively with the freely chosen representatives of labor."[67]

The employers who were indignant at labors interpretations were fearful of the ultimate consequences which would be brought about by wholesale unionization of workers. Again we quote Donald Richberg, "Many persons," says he, "have a distrust of labor organizations and a deep sealed conviction that as the power of organized labor grows, there rises an irresponsible private power which menaces the security of investment and the continuity of business operations by presenting a constant alternative to an employer of either increasing wages beyond his ability to pay, or having his plant shut down by a strike."[68]

Professor Lewis L. Lorwin of the Institute of Economics, Brookings Institute, in writing for the New York Times says, "But employers generally refused to accept the trade union interpretation of Section 7(a). The reasons were many: fear of the 'closed shop'; the idea that the A. F. of L. craft unionism was obsolete in view of the industrial set up of the codes; the belief that trade unions deliberately slow up production; the persistence of the individualistic tradition that the employer must be master in his own plant."[69]

President Green, in a Labor Day appraisment of national planning and economic experimentation, at Wichita, Kansas, asserted that "Labor interprets section 7(a) of the National Recovery Act, and the substitute for the Wagner dispute act

67. N. Y. Herald Tribune, June 7, 1934. Page 21.
68. N. Y. Herald Tribune, Aug. 30, 1933.
69. N. Y. Herald Tribune, Sept. 4, 1934.

industrial management is burdened relatively with the Treasury chosen instrumentalities of labor."

The employers who made limited use of labor injunctions were fearful of the ultimate consequences which would be brought about by widespread utilization of powers. Again we quote Donald Richberg. "Many employers," he says, "have a little-trust of labor organizations and a deep secret conviction that as the power of organized labor grows, there might be irresponsible policies adopted which endanger the security of investment and the continuity of business operations by threatening a contract alternative to an employer of either increasing wages beyond his ability to pay, or having his plant shut down by a strike."

Professor Lewis L. Lorwin of the Institute of Economics, Brookings Institute, in writing for the New York Times says, "But employers generally refused to accept the trade union interpretation of section 7(a). The reasons were many: fear of the 'closed shop'; the idea that the n. r. a. or U. S. growth unionism was obsolete in view of the industrial set up of the codes; the belief that trade unions deliberately slow up production; the persistence of the individualistic tradition that the employer must be master in his own house."

President Green, in a labor day appreciation of Roosevelt planning and economic experimentation, at Atlantic, Ga., asserted that "labor interpreted section 7(a) of the National Recovery Act, and the substitute for the Wagner Act Hearings set

87. H. A. Gerald Tritton. Op. Cit. Page 21.
88. H. A. Gerald Tritton. Op. Cit. Page 22.
89. H. A. Gerald Tritton. Op. Cit. Page 23.

providing for the creation of a national relations board, as meaning that: first, the workers of the nation are accorded and guaranteed the right to organize for mutual help and protection, free from interference or coercion by their employers or their agents; second, that the organization established under this free exercise of their legal rights shall be accepted and recognized by employers as the agency through which the workers may bargain collectively regarding wages, hours, and conditions of employment through representatives of their own choosing."[70]

Having found labor's and industry's interpretations of Section 7(a) of the N.I.R.A. we turn to a statement issued jointly by Administrator Johnson and Chief of Legal Division Richberg on their position on interpretations of Section 7(a). This statement which was issued on Wednesday, August 24, 1933, reads, in part, as follows:

"The plain meaning of Section 7(a) cannot be changed by any interpretation by anyone. It is the function of the administrator and the courts to apply and to interpret the law in its administration; and no one else can assume this function and no interpretation can be circumscribed affected or foreclosed by any one writing his own interpretations into any code or agreement. Such an interpretation has no place there and cannot be permitted."[71]

The Labor Boards interpretation of Section 7(a) came in the case of National Lock Company, and Federal Labor Union

70. New York Times, Nov. 4, 1934. Section 8, Pg. 4.
71. N. Y. Herald Tribune, Aug. 24, 1933

#18830, decided February 21, 1934. The decision reads, "The collective bargaining envisaged by the statute involves a quality of obligation--an obligation on the part of employees to present grievances and demands to the employer before striking, and an obligation on the part of the employer to discuss differences with the representatives of the employees and to exert every reasonable effort to reach an agreement on all matters in dispute. Negotiations should precede rather than follow the calling of a strike. But no matter how grievous the fault of the employees may have been in striking before exhausting every possible means of reaching an amicable adjustment of differences, there was and can be no justification for the infringement by the employer of the statutory rights of his employees.

"Section 7(a) cannot be altered by omission or qualification by those unsympathetic with its major objectives. -----Representation is not restricted under the statute to fellow employees. There is no limitations on the form of organization which may be established by the workers. -----organization and representation are matters which concern the employees exclusively. The employer has no right to initiate a plan of organization, or to participate in any way, in the absence of any request from the employees, in their designation of representatives and their self organization. In fact such actions are expressly forbidden by the statute." [72]

72. Decisions of the National Labor Board, Aug. 1933-March 1934. U.S. Government Printing Office, Washington D. C. 1934 Page 19.

The government wrote into the N.R.A. law a clause that it was soon to find caused a complete revolution between capital and labor.

In a N. Y. Herald Tribune editorial it speaks of Section 7(a) as "The beautifully muddled language and the artful insincerity of Section 7(a) of the Recovery Act."

And further down in the same editorial it says, "Unfortunately, the New Dealers have set in motion forces beyond their ability to control. In the name of experiment they have unleashed emotions which threaten to wreck a city and disorganize a state."[73.]

In a previous editorial the same paper in commenting on "The General Strike" again finds an opportunity to score severely the policy of the government toward labor. It said, "At the bottom, however, the influence of the whole Roosevelt labor policy cannot be disregarded. Well intentioned, but superficial, it rushed lightheartedly to the solution of deep and intricate problems which government is unequipped to solve. It raised lavish hopes which it had no power to fulfill; it raised damaging fears though it had no intention of substantiating them. It interfered just far enough in the delicate balance of industrial relations to upset the established positions and ideals, and not far enough to supply anything in their place."[74.]

73. N. Y. Herald Tribune Wed. July 18, 1934, Pg. 16. Editorial "Where Responsibility Rests."
74. N. Y. Herald Tribune, July 16, 1934. Pg. 10 Editorial "The General Strike."

And on July 20, another editorial on "The Logic of Events" says, "Union sentiment in San Francisco was deeply inflamed by the false hopes of Section 7A,--"[75.]

This time the Herald Tribune in a "Labor Day" editorial asserts that "The government, with no considered plan and no intelligible policy save optimism, plunged into a field for which it was utterly unsuited. It upset an intricate complex of human relationships, where stability was vitally important to the progress of recovery, with out having anything to put in its place. The result was to awaken hopes among laboring men and ambitious labor organizers which the government had no means of satisfying; to awake serious fears in the minds of industrial managers which it had not the courage to allay. The labor policy of the Roosevelt administration has been one of its most obvious disasters, both for laboring men and for industry as a whole--by the continued and prosperous operation of which laboring men, like everybody else, alone can live. And if Labor Day this year is not a happy one, this is largely because of the Administration's mistakes."[76.]

A. J. Hettinger, Jr., ex-member of the staff of the division of research and planning of the N.R.A. writes in an appraisal of the N.R.A. that "It (the government) has no labor policy other than opportunism. There have been as many labor policies in the N.R.A. as there have been labor crises,

75. N. Y. Herald Tribune, July 20, 1934. Pg. 16. Editorial "The Logic of Events."
76. N. Y. Herald Tribune, Sept. 3, 1934. Pg. 10. Editorial "Labor Day"

and their number is legion."[77]

And in the same appraisal among the forty-five propositions he offers as being true, the following are most significant:

"19. That in the absence of any clearly defined policy, the codes became a jumble of price fixing, limitations of machine hours, limitations of output, hindrances to new capital, investment and policies that conflicted, in general, from code to code and from industry to industry. Utterly unenforceable labor clauses were written into codes--the net result a disillusioned and embittered labor.

"25. That in the whole field of labor relations the N.R.A. true to its opportunistic creed, has sought the solution of the moment. It has dodged, boxed the compass and, to use an inelegant but truly expressed phrase, messed up the whole field of American Labor Relations, to the detriment of labor, capital, the body politic and the return of prosperity to the nation. The General proved himself to be the master of crises of his own creation, and the solutions breed yet more crises."[78]

77. N. Y. Herald Tribune, Sept. 9, 1934 Sect. II Pg. 1.
78. Ibid. Page 7.

Chapter II

PROVISIONS RELATIVE TO ORGANIZATION OF LABOR UNDER SECTION 7A.

A. Railroad Labor Act.

As for background on the subject of organization of labor under Section 7(a), we find that other attempts have been made in the past to give labor a better opportunity for organization and settlement of disputes due to collective bargaining.

"In (the) discussion of the collective bargaining provisions of the N.I.R.A. (Section 7(a)) reference is frequently made to the provisions found in the Railroad Labor Act--for the settlement of labor disputes. The Act provides for the settlement of such disputes by a board of Mediation, and if such a board be unsuccessful, by a Board of Arbitration (provision being also made for emergency boards of arbitration without prior action by a board of mediation.)"[1].

B. Collective Bargaining Provisions.

Other previous legislation which has been primarily to benefit labor in its attempt at collective bargaining has been the Anti-Trust Laws.

"According to Professor Berman, by the time the first

1. A Handbook of the N.R.A., By Mayers, 2nd Edition. Federal Codes, Inc., N.Y., 1934. Page 137.

decision on a case brought under the provision of the Act, (Sherman Act of 1890) was rendered by the Supreme Court of the U.S., the Act had been invoked only once against a business combination, but it had been made the basis for attacks upon the legality of labor organization eleven times."[2].

And as for the Clayton Act of 1914, we read that, "Several sections of this act were dictated by representatives of labor organizations, and the law was widely acclaimed by unionists as a sort of 'Magna Charta' for labor. Sections six and twenty, especially, were heralded as labor's Bill of Rights. The first of these specifically approves the right of workers to organize for purposes of mutual assistance and declares that such combinations shall not be considered conspiracies subject to regulation under the Anti-Trust Provisions of Federal legislation."[3].

Continuing, it says, "Altho the law seems clear, the courts have seen fit to construe it in a number of ways, with the result that no simple statement can be made as to the legality of labor organizations or their activities."[4].

So that "As the result of the first case (Hitchman Coal and Coke Co vs. Mitchell 245 U.S., 229 (1917)) numerous courts of minor jurisdiction have held that it is illegal for labor organizations to make any effort to encourage breach of an anti-union contract."[5].

"From each of these decisions (Adair vs. the U.S., 208 U.S. 161-1908; and Coppage vs. Kansas, 236 U.S., 1) therefore,

2. Labor Economics and Labor Problems, By Dale Yoder. Mc Graw Hill Book Co., Inc., N.Y., 1933. Page 478
3. Ibid. Page 479
4. Ibid. Page 479
5. Ibid. Page 481

it appears that the court regards anti-union contracts as legal and proper and that is will hold legislation attempts to prohibit these contracts unconstitutional."[6].

"Therefore, while it is perfectly proper for workers to organize and to bargain collectively (under the Clayton Act), it remains equally proper, in most jurisdictions, for employers to reject workers who refuse to forego union membership."[7].

In the case of Bedford Cut Stone Company vs. Journeymen Stone Cutters Association of North America (274 U.S. 377) Justice Brandeis in giving the dissenting opinion states, "If, on the undisputed facts of this case, refusal to work can be enjoined, Congress created by the Sherman and The Clayton Act an instrument for imposing restraints upon labor which reminds of involuntary servitude."[8].

And he continues, "The Sherman Law was held in U.S. v. U.S. Steel Corporation to permit capitalists to combine in a single corporation 50 per cent of the steel industry of the U.S., dominating the trade through its vast resources. The Sherman Law was held in the U.S. V. United Shoe Machinery Company to permit capitalists to combine in another corporation practically the whole shoe machinery industry of the Country, necessarily giving it a position of dominance over shoe-manufacturing in America." Most logically, therefore, "It would, indeed, be strange if Congress had by the same act willed to deny to members of a small craft of workingmen the right to cooperate in simply refraining from work when that course was

6. Ibid. Page 482
7. Ibid. Page 483
8. Business Organizations and Control, By Tippetts & Livermore. D. Van Nostrand Co., Inc., N.Y., 1932. Page 630.

the only means of self-protection against a combination of militant and powerful employers. I cannot believe that Congress did so."[9].

"Is there any cause for wonder," ask the authors, Tippetts and Livermore, "that the American Federation of Labor has announced that it favors the immediate repeal of the Anti-Trust Act," and state that, "It is an open question as to how effective these laws have been in controlling industrial combinations. With regard to labor, however, there is no question at all; they have been most effective."[10].

Legislature has come in succession to take the place of ineffective or obsolete laws to enhance labor's collective bargaining. The Norris-La Guardia (labor injunction) Act (Act of March 23, 1932. C. 90, 47. Stat. 70, 29 U.S. Code.) was the last before the National Industrial Recovery Act. The language of the last clause is of great interest because of its similiarity with Section 7(a) of the N.I.R.A.

The wording of that clause is as follows: "Whereas under prevailing economic conditions, developed with the aid of governmental authority for owners of property to organize in the corporate and other forms of ownership associations, the individual unorganized worker is commonly helpless to exercise actual liberty of contract and to protect his freedom of labor, and thereby to obtain acceptable terms and conditions of employment, wherefore, though he should be free to decline

9. Ibid. Page 631
10. Ibid. Page 631

the only means of self-protection against a lack of protection of militant and unorganized employees. I cannot believe that Congress did so."[9]

"In these days, when our economy," say the authors, Fippette and Livermore, "also the American Federation of Labor has announced that it favors the immediate repeal of the anti-trust act," and state that, "it is an open question as to how effective these laws have been in enforcing individual criminations. With respect to labor, however, there is no question at all; they have been most effective."[10]

Legislation has been in succession to that the piece of ineffective or obsolete laws to minimize labor's collective bargaining. The Norris-La Guardia Labor Injunction Act (Act of June 23, 1932. C. 90, 47. Stat. 70, 29 U.S. Code) was the last before the Wagner Industrial Recovery Act. The language of the last clause is of great interest because of its similarity with section 7(a) of the N.I.R.A.

The wording of that clause is as follows: "Employees under prevailing economic conditions, developed with the aid of governmental authority for bargaining of association in the designation and other forms of concerted activities, the individual unorganized worker is powerless to negotiate with employers equal liberty of contract and to protect the freedom of labor, and therefore to obtain and maintain wages and other conditions of employment, wherefore, shall be deemed to have the protection

9. Ibid. p. 8 A31
10. Ibid. page 8A31

to associate with his fellows, it is necessary that he have full freedom of association, self-organization, and designation of representatives of his own choosing to negotiate the terms and conditions of his employment, and that he shall be free from the interference, restraint, or coercion of employers of labor or their agents, is the designation of such representatives or in self-organization or in other concerted mutual aid or protection; therefore, the following definitions of, or limitations upon the jurisdiction and authority of the courts of the United States are hereby enacted."[11.]

We have other provisions of the above act which pertain to labor and are worthy of quotation. Translating the above, with other sections, into plain language, we find the following of interest:

1. It declares that, in the interests of recognized public policy, the right of workers to organize and to bargain collectively through representatives of their own choice cannot be questioned, nor can interference with that right be permitted.
2. It declares yellow-dog, anti-union contracts to be contrary to public policy and places all agreements in conflict with the principle mentioned in paragraph (1) above to be in the same category.
3. It forbids all subordinate Federal courts to issue injunctions that enjoin individuals or groups from
   (a) Ceasing or refusing to perform any work or to remain in any relation of employment;

11. A Handbook of the N.R.A. By Mayers 2nd Edition. Federal Codes, Inc., N.Y., 1934. Page 138

to associate with his fellows, which is necessary, that he have full freedom of religion, opinion-formation, and declaration of representatives of his own choosing to negotiate the terms and conditions of his employment, and that he shall be free from the threat of force, restraint, or coercion of any form of labor or trade union, in the designation of such representatives or in affiliation or in other concerted mutual aid or protection; whereupon, the following declaration of, or limitations upon the jurisdiction and authority of the courts of the United States are hereby created."[11].

We have other countries of our economical sphere certain to labor and are worthy of consideration. Together with the above, with other provisions, into plain language, are that are following of interest:

I. It declares that, in the interests of peace and public order, the right of workers to organize and to bargain collectively upon a representatives of their own choice cannot be questioned, nor can interference with that right be permitted.

2. It declares union-shop, anti-union contracts to be contrary to public policy and place all employers in conflict with the principle mentioned in paragraph (1) above to be in the same boat.

3. It forbids all subpoenas under penalty of injunctions that employs that labels or go-ups from (a) issuing or refusing to produce any work or to remain in any relation of employment.

11. A textbook of the U.S. Labor Relations Board, Edward Cohen, Inc., ..., 1936. Page 1-2

(b) Becoming or remaining a member of any labor organization or of any employer organization, regardless of any such undertaking or promise as is described in Section (3) of this act (Anti-Union Contracts);

(c) Paying or giving to or withholding from any person participating or interested in such labor dispute or strike any unemployment benefits or insurance or other moneys or things of value;

(d) By any lawful means aiding any person participating or interested in any labor dispute who is being proceeded against in or is prosecuting any action or suit in any court of the United States or of any state;

(e) Giving publicity to the existence of, or the facts involved in, any labor dispute whether by advertising, speaking, patrolling, or by any other method not involving fraud or violence;

(f) Assembling peaceably to act or to organize to act in promotion of their interests in a labor dispute;

(g) Advising or notifying any person of an intention to do any of the acts heretofore specified;

(h) Agreeing with other persons to do or not to do any of the acts heretofore specified; and

(i) Advising, urging, or otherwise causing or inducing without fraud or violence the acts heretofore specified, regardless of any such undertaking or promise as is described in Section (3) of this act (Anti-Union Contracts).

4. The Act revokes the rule laid down in the Danbury Hatters' Case that union members may be held liable for damages caused by actions of other members. Unionists are to be liable only "Upon clear proof of actual participation in or actual authorization of such acts or of ratification of such acts after actual knowledge thereof. etc.[12]

Then to turn facetious, the author adds for good measure, "It remains to be seen whether or not this law will stand the test of consitutionality and, if so, how many loop-holes may be found by which its provisions may be evaded."[13]

Now it seems strange that, after such a law as the Norris-La Guardia Act quoted above, there should have been any necessity for Section 7(a) of the N.I.R.A. But out of all provisions to be put in the codes, Section 7(a) alone was mandatory,[14] and the value of the provision was to "Furnish a foundation for actions institued by employers, or by labor organizations, to restrain their violations."[15]

Parts (1) and (2) of Section 7(a) were aimed primarily at "yellow-dog" contracts, which the Norris-La Guardia Act

12. Labor Economics & Labor Problems, By Dale Yoder, Mc Graw Hill Book Co., Inc., N.Y., 1933. Pags. 502 & 503.
13. Ibid Page 503.
14. A Handbook of the N.R.A., By Mayers 2nd Edition. Federal Codes, Inc., N.Y., 1934. Page 37.
15. Ibid.Page 38

quoted above, "Declares--to be contrary to public policy." We have the opinions of many experts who condemn these contracts as not only being contrary to public policy, but also unenforceable. From A. F. of L. pamphlets we read the opinions of the following:

1. George W. Norris, U.S. Senator from Nebraska; "The 'yellow-dog' contract in my judgment, is void for three reasons: First, it is without any consideration; second, it is signed under coercion; third, it violates public policy."[16.]
2. Paul F. Brissenden, of Columbia University: "Such a contract being against public policy should be forbidden."[17.]
3. John A. Fitch, of the New York School of Social Work: "It is my belief that such contracts should be outlawed as against sound public policy."[18.]
4. Wm. E. Borah, Senator from Idaho: "I contend that this contract is void."[19.] and therefore unenforceable.
5. Robert F. Wagner, Senator from New York: "All this is accumlative evidence that the anti-union promise is in conflict with public policy. Certainly, no court of equity ought to give it validity."[20.]

16. Yellow-Dog Contracts--Condemned by Experts. A. F. of L. Washington, D.C., 1930. Page 13.
17. Ibid. Page 15.
18. Ibid. Page 17.
19. "Yellow-Dog" Contract--Menace to American Liberties. The A. F. of L. Washington, D.C., 1930. Page 8.
20. Ibid. Page 31.

quotes adopts, "contracts--to be contrary to public policy."[7] We have the opinions of many writers who condemn these contracts as not only being contrary to public policy, but also unenforceable. Here is a few of the noteworthy and read the opinions of the following:

1. George F. Edwards, U.S. senator from Nebraska:

"The 'politics-for' decreases in my judgment, in world for three reasons: First, it is without any consideration; second, it is aligned under pressure; third, it violates public policy."[16]

2. Frank A. Brisendine, of Columbia University:

"Such a contract being against public policy should be considered."[17]

3. John A. Fitch, of the New York School of Social Work: "It is my belief that such contracts should be outlawed as violating sound public policy."[18]

4. Mr. J. Hoch, senator in Idaho: "I contend that this contract is void." and therefore unenforceable.[19]

5. Robert F. Wagner, senator from New York: "All this is sound. The evidence that the arbitration provision is in contrary with public policy. Therefore, the court should not give it validity."[20]

16. Hearings, Subcommittee--Committee on Commerce. A. S. 6-1. Part 1. Pp. 0.0., 1930. Page 12.
17. Ibid. Page 12.
18. Ibid. Page 17.
19. "Yellow-Dog Contract--Cause to Abolish Injunction." The A. F. of L. Washington, D.C., 1929. Page 5.
20. Ibid. Page 21.

6. Again quoting George W. Norris, Senator from Nebraska: "Mr. President, that is one of the effects of the 'yellow-dog' contract. It means, as I look at it, an interference with the liberties of the American people.------- So when a man signs that kind of a contract, he has become, for the time being, the slave of the master, and the judge denies him his right to freedom. Such a contract is void because it has no consideration."[21]

But let us look at the important case which is the basis for most opinions in regard to "yellow-dog" contracts. American Steel Foundries vs. Tri-City Central Trades Council, 257 U.S. 184 was decided at the October term of court, 1921, in an opinion by Mr. Chief Justice Taft with only Mr. Justice Clark dissenting.[22]

Senator Borah, in a speech before the Senate on the "Parker Case Debate," said in regard to the above case, "In this case it is said 'Where the members of a local union, though not ex-employees--have reason to expect re-employment at a plant where wages have been reduced, interference by them and their union by peaceful persuasion and appeal to induce a strike against the lowered wages, is not malicious or without lawful excuse--' And is not subject to restraint by injunction."

21. Ibid. Page 42.
22. Ibid. Page 58.

"Where there is no malice, where there is no deception, where there is no deceit, where there is no fraud, peaceful persuasion is not to be restrained, seems to me to be a fair construction of this case."[23.]

Then later on he says, "Therefore, any lawful persuasion, persuasion not accompanied by threat, intimidation, deceit or misrepresentation, is lawful, says the Tri-City Case, and should not be enjoined by a court of equity."[24.]

Continuing, "But that matter was before the Supreme Court in the Tri-City Case, and they undertook to say, as I understand the reading, that only when deceit and malice were accompanying the persuasion could a court of equity be involved to protect the contract."[25.]

But most important, "Justice Brandeis holds that there are conditions under which it is justifiable (for the union to solicit employes of the employer to depart from the employer and join a union), and in the Tri-City Case those conditions are set forth, to wit, whenever the union members undertake to persuade the employee to leave the employment for the purpose of joining the union, without deceit or misrepresentation, without threat or intimidation, but solely for the purpose of bringing a larger membership, thereby increasing the strength of the union, that it is justifiable."[26.]

In considering other factors which affect the validity of Section 7(a) we read that "This provision aimed at the

23. Ibid. Pages 13 & 14.
24. Ibid. Page 15.
25. Ibid. Page 16.
26. Ibid Pages 17 & 18.

"Among the e is no nation, where it is so important, where there is no decent, which have to stand, general permanent in and by or organized, means to be in a fair constitution of this case.

Men later on in upon, "Therefore, any legal provision, persuasion but accompanied by reason, intuition, desire or mere sentimentalism, [illegible] [illegible] are always not be replaced by a course of equity."

Continuing, "But that either the [illegible] Court in the pre-[illegible] [illegible] undertook to say, as I understand the result, that [illegible] death and [illegible] were constituting the [illegible] [illegible] a court of equity be involved to protect the contract."

But great is [illegible], "Madame Blanche [illegible] there are conditions under which it is impossible for the union to adopt analogous of the employer to depart from the employer and join a union, as, in the [illegible] [illegible] [illegible] are set forth, to wit, whenever the union seeking [illegible] to persuade the employee to leave the employment for the purpose of joining the union, either [illegible] or [illegible] without threat or intimidation, and [illegible] [illegible] as of burning a larger [illegible] [illegible] [illegible] of the union, [illegible] is impossible."

In considering other factors which are not of the [illegible] of [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

22. [illegible], page [illegible] 14.
23. [illegible], page 16.
24. [illegible], page 20.
25. [illegible], page 17, 18.

"yellow-dog contract" long exacted of employees in some of the major industries, would seem to encounter the same difficulties of enforcement at the hand of government, in ordinary cases, by reason of the difficulty of relating a violation to interstate or foreign commerce. Should an employer ever again, however, as is wholly improbable, invoke the aid of the federal courts to restrain attempts by union organizers to unionize his employees, on the ground that the latter had contracted not to join a union, it would be entirely possible for the Supreme Court reversing its former holdings (Hitchman Coal and Coke Co. v. Mitchell (1917) 146 U.S. 229), to deny relief on the ground that, regardless of the power of Congress to punish violations of the provisions in question, such contracts are now, in the light of statute, contrary to public policy and unenforceable."[27]

In summing up the above facts we see that "yellow-dog" contracts have been, and may still be, upheld. But under certain conditions, mentioned above, they have no effect. Senator Borah said that "The basis upon which the contract has been sustained is that of the liberty to contract. The Supreme Court has said, by a majority that under the fifth and fourteenth amendments the right to make a contract is part of the liberty guaranteed by those amendments, and it cannot be taken away. Liberty of contract is curtailed and circumscribed, as everyone realizes, by the question of whether or

27. A Handbook of the N.R.A., By Mayers 2nd Edition. Federal Codes, Inc., N. Y., 1934. Page 39.

not it is in accordance with sound public policy, whether it is against it."[28]

Mr. Borah came to the conclusion that "It is contrary to public policy because it places the workingmen in a position of inequality, in a position where they cannot protect their interests against the employers. They are surrendering a vital, personal privilege which is not in the interest of the public to do."[29]

In order to make clearer the interpretations of Section 7(a) a joint statement of the Administrator and Chief of the Legal Division was issued on August 23, 1933. The summary of the important provisions of this statement are as follow:

1. The words 'open shop' and 'closed shop' are not used in the law and cannot be written into the law.
2. Reaffirms employees right to organize and bargain collectively thru representatives of their own choosing.
3. Employees may choose anyone they desire to represent them or they may choose to represent themselves.
4. Employees shall be free from interference, restraint or coercion of the employer in the exercise of their rights established by law.
5. The law does not prohibit the existence of a local labor organization which may be called

28. "Yellow-Dog" Contracts--Menace to American Liberties. The A. F. of L. Washington, D.C., Page. 10 & 11.
29. Ibid. Page. 10.

a company union, but it does:

(a) Prohibit employers requiring, as a condition of employment, that an employee join a company union;

(b) Prohibits maintenance of a company union, or any other labor organizations, by the interference, restraint or coercion of an employer; but

(c) In case of a dispute, the N.R.A. will offer its services to conduct an impartial investigation or secret ballot to settle the question.[30]

"The National Recovery Administration announced--that it would recognize no particular type of labor organization in the codes of fair competition."[31]

In a radio address made August 29, 1933, Donald Richberg made the above fact emphatic by mentioning it twice. First he said, "the recovery act and its administrators do not contemplate that any particular labor organization should be enthroned by government fiat, or by government aid, and invested with power to control the destinies of any industries, or of all industries." And later that "The law is not intended to enthrone any national labor organization or to dissolve any local organization."[32]

Labor was to get other setbacks. Section 7(a) has many defects. Senator Wagner in introducing his bill to abolish the company union, declared in a speech to the Senate that

30. N.Y. Herald Tribune, Aug.24, 1933. Page. 6.
31. Ibid. Page 1.
32. N. Y. Herald Tribune, August 30, 1933. Page 2

"The third major defect of Section 7(a) is that it guaranteed employees the right to organize, but not the right to recognition." As a result, "Over 70% of the disputes coming before the Labor Board have been caused by refusal of employers to deal with representatives chosen by their workers."[33]

C. "Merit" Clause in Codes.

It wasn't sufficient that labor had to fight for collective bargaining and recognition, but another great problem loomed in the horizon. Big business found a way to weaken labor's position by inventing a "merit" clause.

The automobile industry, one of the most powerful, was the first and last to get away with it. This clause says that "Without in any way attempting to qualify or modify, by interpretation, the foregoing requirements of the N.I.R.A. (Section 7(a)), employers of this industry may exercise their right to select, retain or advance employees on the basis of individual merit, without regard to their membership or non-membership in any organization."[34]

Labor has reiterated dislike for the above clause every time the automobile code has come up for renewal or discussion. In a statement by Wm. Green, President of the A. F. of L., in anticipation of the code coming up for another renewal on February 1, 1935, he said, "The automobile code is the only industrial code of fair practice which contains a merit clause, which is so highly objectionable to organized labor. The labor provisions of the automobile code are unsatisfactory.---The challenge of the automobile manufacturers to renew the automobile

33. N. Y.Herald Tribune, March, 1934. Page 2
34. A Handbook of the N.R.A., Mayers 2nd Edition. Federal Codes, inc., N.Y., 1934. Page 34.

code without change ought to be met firmly and courageously by the government. Labor will protest vigorously and emphatically against a renewal of the automobile code in its present form."[35.]

With the introduction of a "merit" clause by the automobile industry, there was a rush by other industries to place the same clause in their codes. They saw a way of evading Section 7(a) with a very broad all-inclusive clause as their protector. Fearful of this, "The Executive order of October 3, 1933, approving the code for the Boot and Shoe Manufacturing Industry contained the following conditions:

"'Because it is evident that attempts by those submitting codes to interpret Section 7(a) of the N.I.R.A. have led to confusion and misunderstanding, such interpretations should not be incorporated in Codes of Fair Competition. Therefore, Article IV must be eliminated.'"[36.]

"Subsequently, the President in approving the Boiler, Farm Equipment, and the Hotel Codes eliminated similar clauses from them."[37.]

Elimination of the "merit" clause from the above codes evidently wasn't enough hint to industry. It still clamored for it and brought enough pressure to bear, so that the President was forced to issue a letter to the administrator of the N.I.R.A. on October 19, 1933, relative to the clause, which is as follows:

"Because it is evident that the insertion of any inter-

35. N. Y. Herald Tribune, Jan. 25, 1935. Page 34.
36. A Handbook of the N.R.A., By Mayers 2nd Edition. Federal codes, Inc., N.Y., 1934. Pages 138 & 139.
37. Ibid. Page 139.

code without change ought to be not simply and necessarily by the government. Labor will protest vigorously and especially against the removal of the minimum wage provisions from.[36]

With the introduction of "merit" clauses in the textile industry, there was a rush by other industries to secure the same clause in their codes. In a large way, "merit" consideration within very broad limits was shown as equitable procedure. Instead of this, "the Cotton Code of October 3, 1933, approving the code for the cotton textile industry contained the following conditions:

"Because of its position and effects by those contributing cotton to interstate commerce, as the Textile have led to confusion and misunderstandings, such interpretations should not be incorporated in Code of fair competition. Therefore, Article IV must be eliminated."[36]

Further until, the Textile Industry approved the Cotton Farm Equipment, and "a great source of minimum wage elements from Code."[37]

Elimination of the "merit" clause from the Code was evidently would could also be such step. Labor still insisted for it and brought about a change. In fact, to this the President was forced to issue a letter to the administrator of the N.I.R.A. on October 17, 1933, stating the Code change which is as follows:

"Because it is evident that the [illegible]

36. [illegible] Code, [illegible] 1933, [illegible]
36. A handbook of [illegible] and [illegible] Industrial codes, Inc., [illegible] 1934, [illegible] 1934.
37. Ibid. Page [illegible].

pretation of Section 7(a) in a code of fair competition leads only to further controversy and confusion, no such interpretation should be incorporated in any code. While there is nothing in the provision of Section 7(a) to interfere with the bona fide exercise of the right of an employer to select, retain or advance employees on the basis of individual merit, Section 7(a) does clearly prohibit the pretended exercise of this right by an employer simply as a device for compelling employees to refrain from exercising the rights of self-organization, designation of representatives and collective bargaining, which are guaranteed to all employees in said Section 7(a)."[38.]

The letter shows that the President was well aware to what purpose the "merit" clause might serve in the hands of an unscrupulous employer. He made the proper move in preventing further use of it in other codes.

But in spite of the President's feelings on the "merit" clause, the Automobile Code was extended, by Executive Order, until February first without any change.

On November 2, 1934, the President made a statement on the auto industry in which he said, "With the extending of the Automobile Manufacturing Code, it is my purpose to institute a study which may contribute toward improvement in stabalizing employment in the industry and reducing the effect of the seasonal factors.----

38. Ibid. Page 139.

"I have not asked the manufacturers to agree that such an inquiry should be made. I have thought it better to bring the inquiry about under my executive power."[39]

And at the same time to make things even between the manufacturers and the labor group, he sent letters to Mr. Macauley, President of the Automobile Manufacturers' Association, and to Mr. Green, President of the American Federation of Labor, informing them that "I (the President) have carefully considered the situation from many points of view and have come to the conclusion that the code should be extended for ninety days and I am therefore issuing an executive order to that effect."[40]

But labor had had hopes of a complete revision of the above code to enhance their position in the industry. "Organized labor (in the Automobile Industry) is on record for drastic revision of the code, seeking a thirty hour week, and elimination of the 'merit clause' as major goals, with other relatively minor changes.---- In addition, the unions have sought some arrangement in the industry by which 'peaks and dips' in production can be equalized--organized labor has expressed dissatisfaction with the proportional representation method which has been administered by the Automobile Labor Board of which Leo Wolman is chairman."[41]

Their protests were of no avail. All they received were promises, which up to the time of this writing have not been fulfilled.

39. N. Y. Herald Tribune, Nov. 3, 1934, Page 1.
40. Ibid. Page 18.
41. N. Y. Herald Tribune, Nov. 2, 1934, Page 2.

D. Provisions Relating to Wages, Hours, etc.

Of part (3) of Section 7(a) we read that "The regulations of the codes relative to wages, hours, child labor, and other conditions of employment are clearly warranted by the Act. (when applied to interstate commerce, but) In their application to trading and service establishments which do a purely local business, their provisions could seem to present a particularly difficult question of constitutionality."[42.]

"Most relevent to the present discussion would seem to be its decision declaring minimum wage legislation invalid as an undue invasion of individual freedom of contract."[43.]

"The 'due process' clauses of the Fifth and Fourteenth Amendments, which provide that 'No person shall be deprived of life, liberty, or property without due process of law.' For generations, conservative majorities in the Supreme Court have been building up a tradition that 'due process' prohibits all 'unreasonable restrictions' on the freedom of action of business men. Only last year the court held that the State of Oklahoma could not regulate the private Ice Industry by a licensing system, though over the protest of scholarly Justice Louis D. Brandeis, who held out for state experimentation to meet changing economic condition."[44.]

"It is familiar law that Congress has no jurisdiction to

42. A Handbook of the N.R.A., By Mayers, 2nd Edition. Federal Codes, Inc., 1934. Page 41.
43. Ibid. Page 30.
44. Scholastic, Sept. 30, 1933. Page 15. Behind the Headlines. Kenneth M. Gould.

legislate in any field unless such power can be found specially in the Constitution or brought within one of the implied powers arising from powers specifically granted."[45.]

Now "The 'Commerce Clause' (Art. I, Section 8. Para. 3, which gives Congress power 'to regulate commerce---among the several states'), has long been held to apply only to 'interstate commerce' across state lines, but not to commerce within the same state. In other words, latter power is reserved to the states themselves. It was on this basis that the Supreme Court threw out the Child Labor Amendment. But the N.R.A. is nothing if not national. It is definitely attempting to control from Washington the industry of the entire nation."[46.]

"The National Recovery Act purports to deal with industry engaged in interstate or foreign commerce, and this is of course, within the sphere of the power of regulation by Congress. The Codes promulgated by the President and the National Recovery Administration, however, are not so limited, and it is in the enforcement of the primitive provisions in cases not involving interstate commerce that the courts may soon be called upon to pass on the constitutionality of the Act."[47.]

"Even should the court in its graciousness concede jurisdiction to Congress over all phases of industry and commerce, both local and national, the types of concrete regulations which

45. U.S. Law Review, 57:386 Editorial, Aug. 1933.
46. Scholastic, Sept. 30, 1933. Page 15. Behind the Headlines. Kenneth M. Gould.
47. U.S. Law Review, 57:386. Editorial, Aug., 1933.

the act authorizes--hours of labor, wages, prices, and output--have been repeatedly thrown out as unreasonable when imposed by the States and the Nation in their respective fields, except in the narrowly delimited field of railroad and public-utility regulation. And even in that field the court has set itself up as the final power which shall determine what particular rates and restrictions are reasonable and what are not."[48]

And "If a minimum wage law was unconstitutional in the District of Columbia, what will the court say about a law that can be used to extend minimum wage scale into every manufacturing plant in the nation?"[49]

But to look on the other side of the argument justifying provisions relating to wages, hours, etc., we find that "With respect to the remaining two major issues of constitutionality, however, the emergency character of the legislation is of importance---and if it further recognized that the emergency is one affecting interstate or foreign commerce, it is readily arguable that conditions which might ordinarily affect interstate or foreign commerce and which would therefore be beyond the reach of the federal legislative power might in the emergency have such an effect, and accordingly be susceptible to federal regulation. Similarly with respect to the constitional question whether the codes have imposed undue restraint upon individual freedom of contract and use of property, so as to constitute a deprivation of property without due process of

48. The Nation, 137:428, Oct. 18, 1933. Maurice Finkelstein
49. Forum and Century, 90:3. Sept, 1933. The Final Verdict on Recovery. Paul Hutchinson.

law, it is clear that an invasion of individual rights may be justified in the non-existence of such emergency."[50]

Walter Lippmann, commenting on the Supreme Court decision of the Minnesota Moratorium, says, "The basic principle is that the power exists in American government to protect 'the vital interests of the people'.--Thus it transpires that the court holds that extraordinary legislation may be justified, provided it is clear that it deals with a real public need."[51]

In summing up both sides of the argument we ask on the one hand, "Are they unconstitutional for any or all of the following reasons:

1. Because they encroach upon power belonging exclusively to the states, particularly as regards local manufacture and production, terms and conditions of local employment, local regulations governing restraint of trade and monopolies?
2. Because they violate due process of law in the following particulars:
   (a) Price fixing.
   (b) Minimum wages and hours of labor.
   (c) Collective bargaining.
   (d) Limiting production.
3. Omitted.
4. Because they delegate legislative power as for example, in Section 7(a) of the N.I.R.A. which authorized the President to prescribe codes of

50. A Handbook of the N.R.A. Mayer 2nd Edition. Federal Codes, Inc., N.Y.,1934. Page 31.
51. N. Y. Herald Tribune Jan.10, 1934. Page 19. "Today and Tomorrow." By Walter Lippman.

fair competition, fix hours of labor, rates of pay and such other conditions as he may find necessary to effectuate the policy of the Act?"[52]

And on the other hand, "To what extent is the situtation affected by:

1. Existence of an emergency?
2. Changing conceptions as to constitutional fundamentals?
3. Changing conceptions regarding capital and business?
4. Changing conceptions as to the so-called 'division of sovereignty' between state and national government, the weakness of state governments and the pronounced trend toward a strong central government?"[53]

How successful the Federal Government will be in enforcing the N.I.R.A., will depend on which of the above points of view the Act will be viewed by the Supreme Court, and the conditions existing at the time such legislation comes before the court. Taking into consideration the "Policy of Congress to accomplish various objectives" under the N.I.R.A. as mentioned in Chapter I, Page 17, I do not see why any measures which accomplish those objectives cannot be deemed constitutional.

There have been many different opinions expressed, not only on whether there should be any minimum wage legislation, but if such laws were passed, at what amount should such a wage be fixed. We read in N.R.A. Bulletin No. 2, June 19, 1933, that "In preparing basic codes, the following principle(s)

52. A Handbook of the N.R.A., Mayers 2nd Edition. Federal Codes, Inc., N.Y., 1934. Pages 21 &22.
53. Ibid. Page 21.

should be given consideration:

(b) Minimum wage scales should be sufficient to furnish compensation for the hours of work as limited, sufficient in fact to provide a decent standard of living in the locality where the workers reside."[54.]

In order to make it possible for a man to realize the most value for his wages, and prevent "evasion by restricting the freedom of employee in trading or renting," "remedial provisions" have been inserted in several of the industrial codes affected.

The Bituminous Coal Code (Article V) reads as follows:

"E. Employees other than maintenance or supervisory men or those necessary to protect the property shall not be required as a condition of employment to live in homes rented from the employer.

F. No employee shall be required as a condition of employment to trade at the store of the employer."[55.]

Sidney A. Hale, Editor of "Coal Age", commenting on the Coal Codes said that "Compulsory trading at company stores and living in company houses are outlawed under the code. This does not mean the abolition of company stores or company houses; the isolated location of hundreds of mining communities makes the furnishing of such facilities by the coal operators a real necessity. But elimination of any compulsion in their use prevents the possibility of occasional abuse of ownership by unscrupulous operators."[56.]

54. Ibid. Page 77.
55. Ibid. Page 221.
56. N. Y. Times, Sept. 24, 1933. Section 8 Page 3. Sydney A Hale, Editor. Coal Age.

Other provisions of a somewhat similar nature are found in the Retail Code (Article IX, Section 4(a) and (b)), Hotel Code (Article VI), and the Cleaning and Dyeing Code (Article IV, Section 8--9).[57]

"Provisions designed to prevent evasion of the minimum wages scales by an increase in the amount of work required, or an improper speeding-up of work are found in some of the codes, particularly those covering the textile industries where such improper speeding-up is known as a 'stretch-out.'"[58]

The Executive order of Approval of the Cotton Textile Code, reads as follows:

"I. No changes in piece-rates and no increases in the amount of production or work of week workers shall be made for the purpose of evading the benefits to manufacturing employees prescribed by this Code in respect to wages and hours of employment. All requirements in respect to such increases shall be reported to the Cotton Garment Code Authority and failure to so report shall constitute a prima facie violation of this section."[59]

The Steel Tubular and Firebox Boiler Code(Article V, Section 3) also contains such provisions as the above.

"Provisions designed to prevent evasion of minimum wage scales by dealing with the employee on a 'contract' basis are very infrequently encountered.

57. A Handbook of the N.R.A., By Mayers 2nd Edition. Federal Codes, Inc., N.Y., 1934. Pages 221 & 222.
58. Ibid. Page 222.
59. Ibid. Page 222.

"(The)Cotton Garment Code (Article IV) (reads that) Any system of contracting shop work by which an employee undertakes to do piece work at a specific price, and engages other employees to work for him is prohibited by this code."[60.]

The Petroleum Code (Article II) also has a provision relative to evasion by contracting work to employees.

"The right of the bituminous coal miners to have their output checked by the checker of their own choosing, long a source of conflict in the industry, is established by the provisions set forth below. (Bituminous Coal Code (Art. V): No corresponding provision in any other code has come to notice."[61.]

Thomas L. Stokes of the New York World Telegram in summing up the victories of the Coal Code, said, "(2), The right of miners to set up committees of their own to handle grievances, and the right to select one of their own men to weigh coal at the mouth of the pit to assure honest weight for their work both issues involved in the strike about a month ago at the United States Steel Company mines in Fayette County."[62.]

The above are provisions mentioned in the codes and give definite requirements. But what if a worker receives less than the minimum wage fixed in an agreement?

The employee may recover wages where he is paid less than the minimum wage. "(Employee (is) held entitled to recover

60. Ibid. Page 222.
61. Ibid. Page 223.
62. Literary Digest, 116:7 Sept. 30, 1933. The Coal Code as a Victory for the Nation.

from employer who had signed (the) President's Reemployment Agreement, wages fixed in that agreement (or in substituted provisions thereof applicable to industry in which (the) employee is engaged)).[63]"

This justification of a right to sue is found in the decision (Wisconsin State Federation of Labor, Inter. Boot and Shoe Worker's Union and Worker's Union Local No. 170 vs. Simplex Shoe Manufacturing Co. (Circuit Court of Milwaukee County, Wisconsin, Oct. 13, 1933)). in which Circuit Judge Gregory said, "It is the established law of this state that if a person makes a contract with another for the benefit of a third person, the latter may enforce it at law, regardless of his relations with the first person, or whether he had any knowledge of the transaction between such first persons and such other at the time of its occurrence, and regardless of any formal assent thereto on his part prior to the commencement of the action. Tweeddale vs. Tweeddale, 116 Wis. 517."[64]

And further on in the same case he continued, "Upon the theory, therefore, that the blanket code agreement between the defendant and the President constitutes a contract manifestly for the benefit of third persons, namely the defendant's employees, this court unhesitatingly assumes jurisdiction of the agreement between the defendant and the President as the subject matter of this proceeding, including the incorporation and embodiment therein of the provisions of the National Industrial Recovery Act, among them Section 7(a)."[65]

63. A Handbook of the N.R.A., By Mayers 2nd Edition. Federal Codes Inc., N.Y., 1934. Page 384.
64. Ibid. Page 148.
65. Ibid. Page 149.

And in the case of "Kenneth Beaton, Plaintiff v. Major Avondale, doing business as Major's Rotisserie, Defendant (District Court, Second Judicial District, Colorado, Oct., 1933)", Judge Frank McDonough, Sr., ends his decision thusly, "This agreement between the President of the United States and Major Avondale was an agreement made for the use and benefit of employees, and they are entitled to the benefit of the agreement."[66]

We also find that the court upheld the above principle when the judge ruled that "any workers paid less than a minimum wage by an N.R.A.employer may go into court and collect the balance due him." "This decision was given in the case of Samuel Hoffman v. Elias Zervos, proprietor of the Zum Hamberger Fess Restaurant, by Justice James J. Fitzgerald in 1st Municipal Court District, the Bronx, on Nov. 1, 1933.[67]

And again the right, of an employee to sue as a beneficiary to the President's Reemployment Agreement, is upheld in the case of "Floramon Fryns et al v. Fair Lawn Fur Dressing Company (Court of Chancery of New Jersey, Nov. 15, 1933 (144 N.J. Eq. 462))"[68]

In spite of the fact that minimum wage laws are essential, under the present system the minimum wage fixing policy tends to be destructive to the very purpose which it seeks to achieve.

In the first place, we find that the wage which is fixed tends to become the maximum. Prof. Yoder writes that "In actual practice, however, it may be said that the minimum usually becomes the maximum, and the 'scale' tends to be the

66. Ibid. Page 384.
67. N. Y. Herald Tribune, Nov. 2, 1933. Page 6
68. A Handbook of the N.R.A., By Mayers 2nd Edition. Federal Codes, Inc., N.Y., 1934. Pages 151-156.

wage rate for all workers in the trade."[69]

It is the same idea that William Green, President of the A. F. of L. expressed. When testifying before the House Labor Committee on April 26, 1933, on the Black-Connery Bill, "He was emphatic in his opposition to the provision authorizing the creation of wage boards under the Secretary of Labor, empowered to fix minimum compensation in all industries."[70]

He said that would be a most "dangerous experiment." "His fear," says the report, "was that a minimum fixed in a locality where the living costs were lower than the average would tend to become the standard in all competing industries, even those located in communities with higher cost of living."[71]

In the second place, the minimum wage fails to increase purchasing power. In the Business Week Magazine we read that "Capping it all, the benefits to consumers in more jobs and better wages as a result of recovery activities are not as widespread and do not come into action as promptly as the companion price rises, which are immediate and with great eagerness."[72]

The above statements express the true state of affairs in times of rising prices.

William Green in speaking of the Cotton Industry gives the following data: "In 1924 the average wage for a full wage for a full week in the cotton industry was $19.72.

69. Labor Economics and Labor Problems, by Dale Yoder, Mc Graw Hill Book Co., Inc., N.Y. 1933. Page 441.
70. N. Y. Herald Tribune, April 27, 1933. Page 32.
71. Ibid. Page 32.
72. Business Week. Sept. 23, 1933. Page 3.

1924-------$19.72

1926------- 17.48

1928------- 17.30

1930------- 17.36

1932-------14.20 [73.]

So that "It is undoubtedly true that thousands of employers are displaying the Blue Eagle today without having made any sacrifice whatever in order to do so. Their workers were already receiving more than the minimum rates prescribed in the codes; they have ignored, and Washington has permitted them to ignore, the requirement that all wages be raised wherever possible; their business was so far below normal that it can readily be maintained in the shortened work week. All the ballyhoo in the world, unlimited floods of oratory, hysterical drives and mass boycotts, are not going to persuade people to spend money they haven't got." [74.]

And "If labor persists in its demands for higher wages there is a natural limit to such requests. This is reached when capital investments become unattractive and such a development would prevent further progress and ultimately bring about lower wages instead of the desired improvements." [75.] Which would over a period of time decrease greatly the purchasing power of the people.

In the third place, minimum wages fail to create employment because most industries feel they cannot meet these in-

73. American Federationist 4:803. Page 3
74. New Republic, 76:88. Sept. 6, 1933
75. The Financial World, 60:349. Oct. 11, 1933 Labor's Share of the Business Dollar.

1924-------$18.75

1925------- 17.25

1926-------17.50

1927------- 7.50

1928------- 14.50

73.

So that "it is undeniably true that thousands of employers are displacing the 'old' male worker without having any sacrifice whatever in order to do so. Early so-called was already recalling, more than the workman was presented in the cabin; they have ignored, and technology has permitted them to ignore, the requirement that all wages be raised as lower possible; their business was so far below normal that it was readily be maintained in this unfettered work. All the building to the world, unlimited trade or oratory, predatory drives and mass hysteria, are her force to manage people to spend money they haven't got.

And "if labor retaliate in the demands for higher wages there is a natural limit to such endeavors. This is reached when capital investments become unattractive and such a development would cut and further the rate and ultimately bring about lower wages instead of the desired improvements." which would over a period of time decrease instead the purchasing power of the people.

In the first place, nations were left to operate employment because that industries feel they cannot cost basis in-

73. American Federationist 1929, page 3
74. New Republic, 73:4, sept. 3, 1928
75. The Literary World, 27:328, Oct. 1, 1926 Labor's claims on the business world.

creased costs.

"In Maryland", for instance, "several shirt factories were closed, the owners claiming they could not operate under the increased cost of the code, and fulfill contracts. Five mills in North Carolina closed for a week announcing that the Federal Processing Tax and Textile Code had raised textile prices, which in turn tended to decrease orders. This brought about a shutdown to prevent overproduction."[76]

Following along the same idea, "The Review of Economic Statistics" states that "It seems not to be realized that the reason many millions are out of employment in the United States is that many employers have found it impossible to make a profit, or even avoid a loss, from employing people to work for them. If profits could be restored to a reasonable level, the problem of employment would readily take care of itself. Yet the act enforces an immediate increase of labor and other cost."[77]

We see that employment, wages, and purchasing power are so closely related, that anything which tends to affect any one of the above factors, must of a necessity also influence the other two.

Dr. Fetter of Princeton University writes that "A minimum wage law, by itself, neither cures the industrial incapacity nor insures employment to the industrially weak at any wage. The law does not attempt to compel employers to employ at the legal minimum wage any who wish to work; it merely declares that the employer shall not employ any one whom, in his employ, he finds to be not worth so high a wage."[78]

76. Textile Colorist. Sept. 1933. 55:62. Government Gleanings.
77. The Review of Economic Statistics. Aug. 15, 1933, Page 121.
78. Modern Economic Problems. 2nd Edition Revised, Frank A Fetter. The Century Co., N.Y., 1924. Pages 368-9.

In treating of the maximum hour provisions of Section 7(a), we find that "In the codes of several of the industries are found statements of the basic factors affecting the hours of work in the industry."[79.]

The Iron and Steel Codes (Art. IV) and Transit Code (Art.III) are codes with basic factors.

On the other hand, "In several of the codes, the tentative character of their maximum hour provisions is recognized."

The Bituminous Coal Code (Art. V) and the Cotton Garment Code (Art. III) have such provisions. But it is the latter which is of more interest since it gives specific rather than general information.

Article III of the Garment Code requires that no employee is "To work in excess of 40 hours in any one week or more than 8 hours in any one day." And that the code authority is to investigate to determine changes in the code, report its findings to the Administrator "Not later than 60 days after effective date, so that the Administrator may determine whether or not the provisions of this Article shall be changed."etc.

In codes of the industries are found statements of basic facts affecting hours of work in the industry relative to certain conditions.

Geographic differentials of hours are only found in one code, the Salt Producing Code (Art. 3), where different hours are found for different parts of the United States and for different classes of employees.

79. A Handbook of the N.R.A., Mayers 2nd Edition. Federal Codes Inc., N.Y., 1934
(This and all following material is based on above reference. Pages 227-232 and 234-239. Other references will be specified.)

Craft differentials of hours are found in several codes, giving different hours for particular classes of work, "Executives and Supervisory Personnel, receiving more than a stated amount (usually $35 per week) are uniformly excepted--." Different hours for office and factory employees are quite often given in codes.

Differentials based on the size of town or city are found in the Bankers' Code (Art. V(c)) and in the Retail Lumber Code (Art. IV). Exemption from maximum hour requirements are given "Certain employees in towns of 2,500 or less population."

"In most of the codes, the maximum number of hours is stated at a number per week without further limitations as to the number per day. The maximum number of hours per week is stated in about half of the codes. In the remainder, the maximum is stated as an average over a period. The period selected for computing such wages runs from 4 weeks to 12 months, and usually gives a maximum for any one week. "A typical provision fixes the average maximum at 40 hours per week, and the maximum for any one week at 48."

However, "The codes contain a wide variety of provisions relating the maximum hours requirements during periods of seasonal activity. The control of overtime work during such periods is in the hands of the Code Authority. The Automobile Code (Art. III), Bankers' Code (Art. V., Sec. 2), Coat and Suit Code (Art. III), Dress Code (Art.III), Electrical Code (Art. IV. Sec. (b)), and the Lumber and Timber Products Code (Art. VI. Sec. 2 (d)) have such provisions.

Another exception which is quite common is that allowed for emergencies.

Most differential wage rates are found in several codes, giving different hours for particular classes of work. "Representatives and Conservators, Technical, receiving not less than a stated amount (usually $35 per week) are uniformly excepted." Different hours for office and inside employees are quite often given in codes.

Differentials based on the size of town or city are found in the Bakeries' Code (Art. VI(1)) and in the Retail Lumber Code (Art. IV). Exceptions (in addition to those mentioned) are given "Certain employees in towns of 2,500 or less population."

"In most of the codes, the maximum number of hours is stated at a number per week without regard to whether it be the number per day. The exceptions include of hours per week is stated in about half of the codes. In the remainder, the maximum is stated as an average over a period. The period selected for averaging ranges from 4 weeks to 12 months, and usually lies somewhere in the neighborhood of one week. A typical provision lies the average maximum at 40 hours per week, and the maximum for anyone week at 44."

However, "The codes contain a wide variety of provisions relating the maximum hours requirements during periods of unusual activity. The control of overtime work during such periods is in the hands of the Code Authority. The Automobile Code (Art. III), Bakeries' Code (Art. V, sec. 2), Coal and Bulk Code (Art. VII), Dress Code (Art. III), Electrical Code (Art. IV, sec. (b)), and Sign Hanger and Painter Code (Art. VI, sec. 2 (d)) have such provisions.

Another exception which is quite common is that allowed for emergencies.

"The Codes almost uniformly contain provisions excepting repairmen," engineers, electricians, watching crews, and workers in localities where employees qualified for any type of work are not available.

A few of the codes having such provisions are the Cotton Textile Code (Art XIV), Farm Equipment Code (Art.V), Lumber and Timber Products Code (Art. VI Sec. 2), Malleable Iron Code (Art. III, Sec.1), and the Shipbuilding and Shiprepairing Code. (Art. III).

In the case of employees working for more than one employer, "Several of the Codes contain provisions designed to prevent evasion of the maximum hours provisions by the employment of a worker on a part-time basis by two employers. The following is illustrative:

"Hosiery Code (Art.IV)

5. It is interpreted that the provisions for maximum hours established a maximum of hours of labor per week for every employee covered, so that under no circumstances will such an employee be employed or permitted to work for one or more employers in the industry in the aggregate in excess of the prescribed number of hours in a single week."

Another provision which should be given consideration under the codes (N.R.A. Bulletin No. 2, June 19, 1933, Section 7(a)) is "necessary safeguards for the health and safety of the workers."[80]

80. Ibid. Page 177.

"A number of the codes contain provisions calling for compliance with State Factory Laws."[81.]

The following have such provisions:

1. Artificial Flower and Feather Code (Art. VII, Sec. 7)

2. Bituminous Coal Code (Art. VII)

3. Dress Code (Art. VII.)

4. Men's Clothing Code (Art. VII.)

The Corset and Brassiere Code (Art. V) is of special interest as it imposes upon all members of the industry requirements of New York Factory Law. Section (a) of the above article reads, "Since the products of this industry are customarily worn next to the body, all persons shall conduct a clean, sanitary factory. The minimum standard shall be in compliance with the standards set in that part of the factory law of the State of New York, which is applicable to plants in this industry."

81. Ibid. The following material is based on pages 240 & 241 of the text.

Chapter III

ORGANIZATION AND ADMINISTRATION OF SECTION 7(a)

A. Provisions of Adjustment of Labor Violations.

It is one thing to pass a law, and another thing to enforce it. In order that that enforcement may be effective, some form of organization must be set up to administer the Act. Section 7(a) is no exception to the rule. This chapter attempts to give a picture of the agencies set up to see that the law is carried out.

In a statement by the Administrator on Nov. 22, 1933 (Release No. 1847,) he says, "The function of securing compliance with the labor provisions of codes, presents a much more difficult problem of organization and administration. Very few industries are organized at this time along lines suitable to adjustment and fact finding in this type of case. Complaints of violations of labor provisions should not be referred to Code authorities unless such agencies have adequate labor representation thereon. Most Codes do not provide for such representation."[1]

Some codes do have such provisions however, for in the same release (Release No. 1847), the Administrator states that, "Wherever, as in the Bituminous Coal Industry, it

1. A Handbook of N.R.A., By Mayers 2nd Edition. Federal Codes Inc., N.Y., 1934. Page 204

proves possible and appropriate to provide regional or divisional labor boards, to entertain and adjust complaints of labor violations such a system will be approved."[2.]

In the decision of John Staley, et al v. Peabody Coal Company, et al, (District Court of the U. S., Southern District of Illinois, Dec. 16, 1933) Circuit Judge Fitzhenry said, "The Act (N.I.R.A.) and Code (Bituminous Coal Industry Code), however, do provide specific remedies for situations such as are shown by plaintiff's bill. The Code provides, first, for voluntary conferences; second, for recourse to the Bituminous Coal Labor Board; and third, should the award of the Labor Board be unsatisfactory, an appeal to the National Bituminous Coal Labor Board. This latter Board has power to review, modify, affirm or set aside the award of a Bituminous Coal Labor Board, as justice may require."[3.]

The Cotton Textile Industry has provisions in its Code for adjustment of labor violations. Article XVII reads, "To make proper provisions with regard to the stretchout (or specialization) system or any other problem or working condition in the Cotton Textile Industry, it is provided:

1. There shall be constituted by appointment a Cotton Textile National Industrial Relations Board to be composed of three members, one to be nominated by the Cotton Textile Industry Committee to represent the employers, one to be nominated by the Labor Advisory Board of the National Recovery Administration to represent the employees, and a third to be

2. Ibid. Page 204.
3. Ibid. Page 207.

selected by the Administrator."[4]

The powers of the above board were as follows:[5]

1. To appoint in each state in which the cotton industry operates a State Cotton Textile Industrial Relations Board.
2. To review and approve all agreements industrial relations committees.
3. To hear and adjust all cases coming before State Industrial Relations Boards where no agreement can be arrived at.
4. Authority to codify the experiences of the Industrial Relations Committees of the various mills and State Boards in order to establish standards of general practice.

The provisions for settlement of disputes under the above code are:[6]

1. The controversy arising in any Cotton Textile Mill as to the stretch-out system, or other problems, the employer and employees establish an industrial relation committee chosen from the management and the employees of the mill.
   a. Each to have equal representation.
   b. Not more than three representatives each.
2. If no industrial relation committee is established, either group may apply to the State Industrial

4. Ibid. Pages 244-5.
5. Ibid. Pages 245--(based on reference given.)
6. Ibid. Pages 245-6 (based on reference given)

Relations Board for assistance and cooperation in the establishment in such mill of such a committee.

3. The term of service of such a mill committee shall be limited to the adjustment of the controversy, or problem for which it was created.

4. If no agreement can be reached, on the problem, the representatives of either or both groups may appeal to the State Industrial Relations Board for cooperation and assistance in arriving at a decision.

5. If an agreement is reached, it is to be final, but must be submitted to the Cotton Textile National Industrial Relations Board for review and approval.

6. If the State Board cannot come to an agreement, that Board shall present the controversy to the National Board for hearing and final adjustment.

The above National Board for the Textile Industry was, due to the recommendations of the Textile Strike Arbitration Board, headed by Governor Winant, superseded by the Textile Labor Relations Board which was formerly the National Steel Labor Relations Board. The Board was appointed by Executive Order on Sept. 26, 1934.[7]

The Arbitration Board gave the following reasons for their recommendation:[8]

1. Complaints should not be handled by a partisan group made up of employers only.

2. System of Administration of the labor provisions of the code had completely lost the confidence of labor.

7. Based on N.Y. Herald Tribune, Sept. 27, 1934. Pages 1 and 37
8. Based on N.Y. Herald Tribune, Sept. 21, 1934. Page 13

relations board for negotiations and conferences should be established in each unit of such a committee.

3. The duty of settling of disputes by a full committee shall be limited to the adjustment of the controversies or problems for which it was created.

4. If no agreement can be reached, on any problem, the representatives either on both groups may appeal to the State Industrial Relations board for conciliation and mediation in arriving at a decision.

5. If an agreement is reached, it is to be final, and must be submitted to the union labels industrial-commercial relations board for review and approval.

6. If the State board refuses to be agreement, the board shall present the controversy to the national board for hearing and final adjustment.

The above industrial board for the textile industry was due to the recommendations of the textile trades utilization board, based by governor Olson. Governor of the textile labor relations board which formerly the national labor relations board. The board was promulgated by executive order on Sept. 3, 1934.

The committee report made the following recommendations in their recommendation:

1. Committees should not be formed of a multiple union made up of unlicensed men.

2. Cases of misinterpretation of the labor overtime or hour code cannot consistently lost the authority of labor.

3. Based on N.R.A. in the United States, Sept. 1, 1934.

4. Based on N.R.A. General Industries, Sept. 1, 1934.

3. Board cannot function satisfactorily.

Consequently the new independent governmental board known as the Textile Labor Relations Board was given the following duties:[9]

1. "Immediately investigate, hold hearings, make findings of fact, and take approximate action in cases in which it is alleged that there has been discrimination in taking men back to work after the textile strike."
2. May investigate violations of Section 7(a) and make recommendations to carry out enforcement of the collective bargaining rights of labor.
3. May act as a board of voluntary arbitration, investigate wages, hours and other labor violations of the codes.
4. Conduct elections of workers' representatives.
5. Appeals on questions of law may be taken to the National Labor Relations Board.

The Steel Industry has the same board, for adjusting its labor violations, as the textile industry has. It was created on June 28, 1934, and is known as the Steel Labor Relations Board. It is composed of Walter P. Stacy, Chief Justice of the North Carolina Supreme Court, Chairman, Rear Admiral Henry A. Wiley, retired, and James Mullenback, Chicago labor arbitrator.[10]

"Whether the membership of the Steel and Textile Board will remain identical was not made known at the White House,

9. Based on N. Y. Herald Tribune, Sept. 27, 1934. Page 37.
10. Based on Ibid. Page 37.

but for the time being, while duties in the steel industry remain comparatively light, this situation will continue."[11.]

The duties of the Steel Labor Relations Board are practically the same as those given above under the Textile Labor Relations Board as we read that "The Board (Textile) otherwise gets much the same authorization as the Steel Board including the exercise of all the powers provided in the Wagner labor disputes resolution passed by Congress just before adjournment."[12.]

In an article by Professor Lewis L. Lorwin of Brookings Institute; entitled "Industrial Truce or Strife", in speaking of labor's attitude toward the National Steel Labor Relations Board he says, "In the iron and steel industry the situation is somewhat different. The A.F. of L. union chiefly involved, the Amalgamated Association of Iron, Steel and Tin Workers, is thoroughly satisfied to date with the tenets and operation of the National Steel Labor Relations Board created late last June. The board has committed itself to elections, majority rule and recognition of the labor organization thus chosen."[13.]

In the Motor Industry we find the Automobile Labor Board for the adjustment of labor violations. This board was created by Executive Order of March 25, issued by the President announcing the settlement of the Automobile Labor Controversy. Section 3 creating the board is as follows:

"N.R.A. to set up within twenty-four hours a board,

11. Ibid. Page 37.
12. Ibid. Page 37.
13. The N.Y. Times, Nov. 4, 1934. Section 8 Page 3.

responsible to the President of the United States, to sit in Detroit to pass on all questions of representation, discharge and discrimination. Decisions of the board shall be final and binding on employer and employees. Such a board to have access to all payrolls and to all lists of claimed employee representation and such board will be composed of:

(a) A labor representative; (b) an industry representative; (c) a neutral."[14]

Labor's attitude toward this board has been none too good. In November 1934 when the Automobile Code came up for revision or renewal, labor had indicated certain demands they wished adjusted. We read among other things that "Further, throughout the administration of the Automobile Code organized labor has expressed dissatisfaction with the proportional representation method which has been administered by the Automobile Labor Board, of which Leo Wolman is chairman."[15]

And again on Jan. 24, 1935, in a statement issued by Wm. Green, President of the A.F. of L., he says, "The administrative policy of the Automobile Labor Board has been very disappointing to the automobile workers affiliated with the American Federation of Labor. It has failed to measure up to its opportunities to protect the automobile workers in the exercise of their rights to organize and bargain collectively as provided for in Section 7(a) of the National Recovery Act. The automobile workers organized into local unions

14. N.Y. Herald Tribune. March 26, 1934. Page.1.
15. N.Y. Herald Tribune. Nov. 2, 1934. Page 2.

responsible to the overall of the [illegible] labor. In
all it seems to come on all sides some of representa-
tion, discourse and [illegible]. Violations of the
board shall be [illegible] and [illegible] as employers and secondary
ses. Such a board is here [illegible] to all [illegible] and
to all lists of [illegible] employees representation and some
board will be composed of:

(a) A labor representative; (b) an industry representative;
(c) a neutral.

Labor's attitude towards the board has been none too good.
In November 1934 and the [illegible] one came up for [illegible]
or [illegible]. Labor had indicated [illegible] demands [illegible]
adjusted. [illegible] other [illegible] "[illegible]", [illegible]
out the [illegible] of the [illegible] who [illegible]
has expressed [illegible] the proposed [illegible]
[illegible] being a [illegible] by the [illegible]
labor board, or which [illegible] [illegible].

And again on [illegible], in a statement issued by Mr.
[illegible], President of the A.F. of L., he says, "The administra-
tive policy of the [illegible] labor board has been very
disappointing to the [illegible] workers of [illegible] the
American Federation of Labor. In the failed to measure up to
its opportunities to protect the [illegible] workers in the
exercise of their rights to organize and bargain collectively
17 as provided for in section 7(a) of the National Recovery
Act. The [illegible] [illegible] [illegible] [illegible]

14. [illegible] Herald Tribune, March 25, 1936, [illegible].
15. [illegible] Herald Tribune, Nov. 9, 1936, [illegible].

chartered by the American Federation of Labor have no confidence in the Automobile Labor Board. They will have nothing more to do with it as it is now constituted."[16]

The other industries having special boards are the newspaper publishing and the petroleum industries. The former industry has the Daily Newspaper Industrial Board and the latter has the Petroleum Labor Policy Board for any adjustments of labor disputes."[17]

Because the above mentioned industries have boards of their own, "The National Labor Relations Board has not assumed jurisdiction of any cases within the field assigned to the"[18] above boards.

In an editorial in "The Nation" magazine entitled "Boards, Boards, Boards," we read, "It began last summer with the establishment of the National Cotton Textile Industrial Relations Board. Shortly thereafter, the Wagner Board. Since then, labor boards have proliferated until today they fill the landscape of industrial relations. First, The National Labor Relations Board and its immediate affiliates, steel and longshoremen. Second, boards set up by the N.R.A. in connection with codes: cotton, silk, and wool textiles, bituminous coal, newspaper publishing, lumber trucking, and so forth. Third, code boards independent of the N.R.A.: Petroleum (under the Petroleum Administration) and Automobile (thanks to the March 25 settlement.)

"We see here emerging an elaborate system for governing industrial relations under Section 7(a). This system may be

16. N.Y. Herald Tribune. Jan. 25, 1935. Page 34.
17. Based on N.Y. Herald Tribune. Friday, Nov. 2, 1934 Pg. 4
18. Ibid. Page 4.

taken to express the Administration's labor policy. The government will not lend a direct hand to the job of bringing the employers and the trade unions to terms. Instead the government will assist in the creation of appropriate instrumentalities to perform this function."[19]

B. National Set-up.

In the National set-up of the Labor Boards, the National Labor Board, which is the old board was later superceded by the National Labor Relations Board which will be taken up later.

In the Executive Order of December 19, 1933, Section 1 states, "The National Labor Board created on August 5, 1933, to 'pass promptly on any case of hardship or dispute that may arise from interpretation or application of the President's reemployment agreement' shall continue to adjust all industrial disputes whether arising out of the interpretation and operation of the President's reemployment agreement of any duly approved industrial code of fair competition, and, to compose all conflicts threatening the industrial peace of the country. All action heretofore taken by this board in the discharge of its functions is hereby approved and ratified."[20]

The second section of the same Executive order reads, "The powers and functions of said board shall be as follows:

"(a) To settle by mediation, conciliation, or arbitration all controversies between employers and employees which

19. The Nation 139:61. July 18, 1934.
20. A Handbook of the N.R.A., By Mayers 2nd Edition. Federal Codes, Inc. N.Y., 1934. Page 208

tend to impede the purposes of the National Industrial Recovery Act---.

"(b) To establish local or regional boards upon which employers and employees shall be equally represented, and to delegate thereto such powers and territorial jurisdiction as the National Labor Board may determine.

"(c) To review the determination of the local or regional boards where the public interest so requires.

"(d) To make rules and regulations governing its procedure and the discharge of its functions."[21]

On Feb. 1, 1934 an Executive Order was issued to "Provide for and direct the enforcement of certain provisions of Section 7(a) of said act-----."[22] This power was in addition to those given above.

And on Feb. 23, 1934 another Executive Order was issued as an "Amendment of Executive Order No. 6580 of Feb. 1, 1934," "Striking out paragraph 2--and inserting in its stead" another paragraph relative to employer's interference "with the Board's conduct of an election," or "decline to recognize or bargain collectively with a representative or representatives of the employees---or has otherwise violated or is refusing to comply with said Section 7(a)." The order also gives more power to the board as to final disposition of cases involving recalcitrant employers.[23]

The orginal board, which was later to become the National

21. Ibid Page 208.
22. Decisions of the National Labor Board Part II. April 1934 July, 1934. U.S. Gove. Printing Office, Washington, 1934 Front VII
23. Based on Ibid. Front VII

tend to impede the purposes of the National Industrial Recovery Act---.

"(b) To establish local or regional boards from among employers and employees which be equally representative, and to delegate thereto such powers and terms and conditions as the National Labor Board may prescribe.

"(c) To review the determination of the local or regional boards upon the public interest in controversies.

"(d) To make rules and regulations governing its procedure and the duties of its officers."[21]

On Jan. 1, 1934 an Executive Order was issued to "Provide for and direct the enforcement of certain provisions of Section 7(a) of said act-----."[22] This order was in addition to those given above.

And on Feb. 23, 1934 another Executive Order was issued as an "Amendment of Executive Order No. dated of Jan. 1, 1934," "Setting out duties upon 3--not interfere in any manner" another "prescribed relative to employer's interference with the board's conduct of an election," or "hamper, or coerce or bargain collectively with a representative or representatives of the employees---or use otherwise influence or in bargaining to comply with said Section 7(a)." The order also gives more power to the board as to final arbitration or cease activities transient employer.

The original board, which was later to become the National

21. Ibid Page 204.
22. Decisions of the National Labor Board Part II. April 1934 July, 1934. ... Corp. v. Wilson. Decisions, Cases Page V.I.
23. Based on Ibid. Page V.I.

Labor Board, came into existence August 5, 1933 as the industrial Mediation Board. "The Board consisting of seven outstanding leaders of labor, industry and the public, (Senator Robert F. Wagner, Chairman, Mr. William Green, Dr. Leo Wolman, Mr. John L. Lewis, Mr. Walter C. Teagle, Mr. Gerard Swope, and Mr. Louis E. Kirstein), will conciliate, mediate, and arbitrate disputes arising out of differing interpretations of the President's reemployment agreement."[24]

"In October, 1933, the National Labor Board created a number of Regional Labor Boards and issued regulations for their guidance (Release No. 1413, Oct. 27, 1933). These regulations provide procedure designed to insure cooperation with, and prevent duplication of the work of the Division of Conciliation of the Department of Labor, which 'Has maintained for many years and still maintains a large staff of field mediators and conciliators, and receives advice daily concerning most industrial disputes.'"[25]

To effectively carry out any project, there must be public cooperation to make it successful. The Local Boards of Compliance "Will consist of seven members each, and will be created in every city and town in the country to aid in developing that spirit of cooperation among the consumers.

"It was announced also that the new (compliance) boards would be charged primarily with the duties of 'education, conciliation and mediation in their respective communities' and that they would be composed of representatives

24. N. Y. Times, Aug. 6, 1933. Sec. 1 Pg. 1.
25. Handbook of the N.R.A., Mayers 2nd Editions. Federal Codes, Inc., N. Y., 1934. Page 209.

of employers, employees and consumers. The boards will hear complaints and petitions, General Johnson announced, as follows:

1. Complaints of non-compliance with the President's agreement.
2. Petitions for exceptions under paragraph 14 of the President's agreement which permits exceptions where strict compliance will create, 'great and unavoidable hardship.'
3. Petitions for permission to operate on the longer hour schedule of existing union contracts, instead of the maximum hours of the President's agreement."[26.]

C. Wagner Acts to Abolish the Company Union. Adds to Powers of Labor Board.

Because of the sudden rise of company unions and increase in violations of the codes, "Senator Wagner, Chairman of the National Labor Board,---introduced a bill in the senate designed to hit directly at company unions and to guarantee as well company recognition of organized workers."[27.]

"The bill would place the Labor Board on a permanent statutory basis, the head of a potential system of regional boards, with power to issue orders, enforced through courts, to prevent unfair labor practices burdening the free flow of commerce. The board would also act as a conciliator and mediator in labor disputes with full authority to subpoena witnesses, books and papers."[28.] Naturally with such powers as this bill would confer on any one body, it was expected

26. N.Y. Herald Tribune, Sept. 13, 1933. Page 5.
27. N.Y. Herald Tribune, March 2, 1934. Page 1.
28. Ibid. Page 1.

of employees, employers and consumers. The Board will hear complaints and petitions. General duties are enumerated, as follows:

1. Complaints of non-compliance with the President's agreement.

2. Petitions for investigations under the jurisdiction of the President's proclamation which certain corporations were willful complying with. 'Proof and recommendations immediately.'

3. Petitions for investigation of operation of the Labor Board solely of collective bargaining contracts, subject to the decisions of the Board.

4. Matters dealing with the President's agreement.

5. Matters dealing with the President's proclamation.

Because of the sudden rise of collective bargaining and increase in violations of the codes, "Congressman Ayres, Chairman of the National Labor Board, introduced a bill [illegible] the Board to call directly [illegible] of employer misuse and to prevent the as well company organization of independent unions."

"The bill would give the Labor Board a powerful weapon, establishing labor relations boards, with power to issue orders, enforced by injunction, to prevent unfair labor practices such as the formation of company unions. The Board would also have power to hold elections in labor disputes and to certify the representative of employees, based upon results."

As this bill would affect one body, it was [illegible]

28. N.Y. Sun, [illegible], June 27, 1934. Page [illegible].
27. N.Y. Herald Tribune, June 2, 1934. Page 1.
26. Ibid. Page [illegible].

that industry would utter great outbursts of protest. This they did through their spokesman, James A. Emery, General Counsel of the National Association of Manufacturers.

He pronounced "It the most amazing legislative proposal laid before the Senate during the thirty years I have had the opportunity to examine and analyze proposals in that body affecting the industries of the United States."

He continues, "A careful examination of the bill would lead any impartial review to the conclusion that the terms of the bill contradict the declared purposes and that the measure is as well designed as would be possible not to encourage the amicable settlement of disputes, but to encourage disputes and not to equalize the bargaining power of the parties affected, but to confer upon one of the parties, namely, the employees, a monopolistic power, which, with the constant assistance of the National Labor Board contemplated by this bill would effectually strip the employer not only of the power to bargain but of the power to negotiate directly with his own employees in the interest of industrial harmony and continuity of industrial operation."[29]

A fine piece of propaganda. As if capital could be divested of its powers quite as easily as all that.

The steel industry, another great force in shaping public opinion, joined in the attack. On March 19, 1934, we read "Action tomorrow will follow the opening gun fired Wednesday when the American Iron and Steel Institute issued a statement declaring the Wagner Bill, if enacted would turn control of

29. N.Y. Herald Tribune, March 4, 1934. Page 20.

American Industry over to a national labor monopoly-----."[30]

"Steel executives declare other industries are following into line against the Wagner Bill. The Automobile Industry has already taken similar action."[31]

However, in spite of all this opposition by industry, General Johnson, Administrator of the N.R.A., backed the bill with certain modifications. In a letter to Robert Wagner on April 9, 1934, he gives his suggestions in the following statements:[32]

"1. In my opinion, the government should not favor any particular form of labor organization."

"2. Whole board (of enforcement) should be impartial."

Because of the great opposition given the original Wagner Bill, a revised bill was offered called the "National Industrial Adjustment Board Bill," which was a compromise from the first bill.

"The new National Industrial Adjustment Board, which would succeed the National Labor Board, would not have the power to arbitrate disputes unless invited to do so by all parties concerned. But the bill would prohibit specified unfair labor practices and empower the board to determine who are duly accredited representatives of labor in any situation.-----All this bill does is to set up machinery to find the facts and define what interfers with fair labor practices."[33]

30. N.Y. Herald Tribune, March 19, 1934. Page 2.
31. Ibid. Page 2.
32. Based on N.Y. Herald Tribune, April 10, 1934. Page 1.
33. N.Y. Herald Tribune, May 27, 1934. Page 14.

Labor had looked forward to seeing Section 7(a) enforced with seriousness, but they were again to be disappointed. Labor loses its patience occasionally. This they did when "The N.R.A. Administrator is understood to urge the creation of a board of Industrial Relations within the Steel Industry--.

"The Amalgamated Association of Iron, Steel, and Tin Workers.----flatly rejected the Johnson plan, however.--- 'We have had enough boards', a spokesman for the labor group said in rejecting Johnson's plan. 'We have had Senator Wagner and his board and what did they get us? Nothing but promises.----

"We object to Johnson hanging more dead cats on the President. One was the auto settlement which lugged in company unions to cut the throats of honest unions.----

"Nine months of this explains why N.R.A. has come to mean National Run-Around. The way to stop it is to convene a Presidential Collective Bargaining Conference now."[34.]

The automobile manufacturers, on the other hand, appealed directly to the President to lay aside the Wagner Bill so as to avoid "Further waves of labor disputes." A group of automobile manufacturers who called on the President made the following statement relative to any labor legislation with special reference to the Wagner Bill:

"It was the opinion of the committee that any legislation which might confuse the existing labor situation and precipitate further waves of labor disputes, resulting in conflicts

34. N.Y. Herald Tribune, June 6, 1934. Pages 1 and 4.

which will seriously affect the course of business in the next months would be inadvisable."[35]

Again much labor was lost. Again the revised Wagner Bill received so much opposition that the President took the matter into his own hands to draft a simplified bill to settle labor disputes.

Labor, through President Green of the A.F. of L., said, "The submission of a compromise Wagner Bill is a keen disappointment to labor. It lacks the vital provisions of the Wagner dispute act and as submitted is suspectible of varied interpretations.

"Labor is unwilling to give indorsement to a measure which provides for the creation of a board or boards to investigate and deal with labor's grievances, complaints and disputes, which does not clearly define and prescribe the powers and limitations of such board or boards."[36]

In other words, for labor "It was not specific enough to assure labor its rights. Mr. Harriman also objected to the general terms, but on the ground that the authority was so broad as to make the sky the limit in the imposition of labor regulations in industry."[37]

And so, in spite of oppositions "A compromise substitute for the Wagner Bill dispute bill", is offered Congress for a vote on June 15, 1934." The compromise is a joint resolution intended to provide a temporary labor dispute system for the

35. Ibid. Page 4.
36. N.Y. Herald Tribune, June 15, 1934. Page 6.
37. Ibid. Page 6.

next year and give Congress time to work out a permanent law--

"Senator Robert F. Wagner, Democrat, of New York, sponsor of the original Wagner Bill, does not like the compromise, but does not intend to fight it."[38]

D. National Labor Relations Board.

Congress approved the President's Bill giving him authority to set up a new board with wider powers for the enforcement of Section 7(a).

The new board known as the National Labor Relations Board got its authority from "Executive Order #6763, dated June 29, 1934 under authority of Public Act #67 (Ch. 90, 48. State. 195, Lit. 15 U.S.C. Sec. 701) and under Public Resolutions #44, 73rd Congress, approved June 19, 1934. Lloyd Garrison, Chairman."[39]

"The primary purpose of the National Labor Relations Board is to investigate issues, facts, practices, and activities of employers or employees in any controversies arising under Section 7(a) of the N.I.R.A. with a view to bringing about compliance with this section. In order to carry out the purposes of Section 7(a) the Board is authorized to conduct elections by secret ballot of any of the employees of any employer, to determine by what person, persons, or organizations the employees desire to be represented in order to insure their right to select representatives for collective bargaining. The National Labor Relations Board is authorized to conduct hearings involving labor disputes whenever it is found to be

38. N.Y. Herald Tribune. June 16, 1934. Page 12.
39. Digest of the Purposes of Currect Federal Agencies, Prepared by U.S. Information Service, Washington, D.C., 1934. Page 34.

in the public interest. It likewise is authorized and directed to recommend to the President, whenever necessary, the establishment of Regional Labor Relations Boards and special labor boards for particular industries. The National Labor Relations Board was created to take over the work of the National Labor Board, which ceased to exist July 9, 1934. Section 5, Public Resolution no. 44, provides that any board established under its authority shall cease to exist on June 16, 1935, or sooner if the President or Congress shall so order."[40]

Besides the chairman, Lloyd Garrison, there are two other members of this board. They are H. A. Willis, and Edwin S. Smith.

On Nov. 16, 1934 there occurred a change in the chairmanship of this Board. "Francis Biddle, a lawyer----, was named----to head the Labor Relations Board----. Biddle succeeded Lloyd K. Garrison who resigned a month ago to return to Wisconsin University where he is dean of the law school."[41]

The Board was to get busy on some big problems shortly after getting into office and organizing its work. On August 28, 1934 we read that "The newly created National Labor Relations Board moved in two ways definitely today as the major Federal Agency for the settlement of labor disputes.---- the board first began negotiations to end the Aluminum Strike, and then made proposals to avert the threatened walkout of

40. Ibid. Page 34.
41. N. Y. Herald Tribune, Nov. 17, 1934. Page 1.

600,000 to 750,000 workers in the Textile Industry."[42]

In the Board's release of September 26, 1934, certain recommendations were made to the President in regard to the regional set up on labor. They were as follows:

1. "To make a more permanent set up of the nineteen regional labor boards by centralizing the responsibility for the functioning of each board around a full-time, paid director, selected by and working under the national board.----
2. "'Each regional board should consist of panels representing industry, labor and the public, located at key points in the region. Under this plan when a case arises the director will go to the locality to take charge of it, and if a hearing becomes necessary he will invite members of the panel to sit with him.'"[43]

The report ended with the paragraph, "It is believed that, in general, cases will be most effectively and speedily disposed of if they are heard by a small group consisting, say, of one labor representative, one industry representative, and a public representative as chairman."[44]

E. National Reorganization is Completed for Settling N.R.A. Code Disputes.

Of the nineteen regional set ups for labor which were recommended, "The National Labor Relations Board--announced

42. N.Y. Herald Tribune, Aug. 28, 1934. Page 5.
43. N.Y. Herald Tribune, Sept. 26, 1934. Page 8.
44. Ibid. Page 8.

completion of its decentralization plan, dividing the country into seventeen districts with a Regional Labor Board having jurisdiction in each."[45]

The Regional Labor Boards were not to be "Responsible for the handling of such controversies in the steel, textile, automobile, bituminous coal, newspaper publishing and petroleum industries,"[46] because as mentioned above, these industries have boards for adjusting cases within their field.

45. N. Y. Herald Tribune, Nov. 2, 1934. Page 4.
46. Ibid. Page 4.

Chapter IV

BENEFITS ACQUIRED BY LABOR UNDER SECTION 7A

A. It Has Helped to Increase Employment.

In spite of the criticism against labor and the legislation enacted in its favor, labor has made some gains under Section 7(a). If they have not been exactly visible and tangible, they have nevertheless left a lasting affect in the shaping of future labor policies.

We find that thru Section 7(a), by the limiting of hours and fixing of pay, employment did, for a while, increase quite a good deal. The reports of the U. S. Department of Labor and the American Federation of Labor showed increasing employment since the adoption of the codes. In an article written by William Green, President of the A. F. of L., on Sept. 3, 1933, he says, "Contrary to the usual trend in summer, employment has been increasing since March. The Secretary of Labor recently estimated, on the basis of a careful, detailed survey, that approximately 400,000 people returned to jobs in factories in July.---The Labor Department's tabulation in August of sixteen non-manufacturing industries, over the March to July period indicates approximately 300,000 more workers in July than in March."[1]

1. N. Y. Herald Tribune, Sept. 3, 1933. Magazine Page 2.

In a report of Oct. 8, 1933 by the A. F. of L., the statement is made that "More than 3,000,000 men went back to work up to the end of September and 'employment is still increasing.'"[2] In another report, Oct. 23, 1933, we read that "'Since the inauguration of President Roosevelt unemployment in the United States has been reduced by almost 3,600,000', President William Green of the American Federation of Labor stated today, 'Of these more than 1,700,000 have been reemployed.' Mr. Green said, 'As a result of the functioning of the President's Recovery Program. In August unemployed persons restored to work numbered 833,000 and in September the number was 871,000.'"[3]

Gerard Swope, President of the General Electric Company, in an address over a N.B.C. network from W.E.A.F. told his listeners that "It (the N.R.A.) has given employment, as the President has stated, to 4,000,000 persons----."[4]

The Automobile Industry had contributed its share to employment. "General Johnson advised President Roosevelt that manufacturers of automobiles operating under the code reported that employment has increased from 125,000 in July of this year to 150,700 in September, or 20 per cent."[5]

Concerning the Textile Industry, General Johnson issued a statement at the time of the strike settlement, in which he summed up the improvements in employment. He said that "Between March 1933 and April, 1934, employment increased 34 per cent."[6]

2. N. Y. Herald Tribune, Oct. 8, 1933. Feature. Page 24.
3. N. Y. Times, Oct. 23, 1933. Page 1.
4. N. Y. Herald Tribune, Nov. 5, Feature. Page 12.
5. N. Y. Herald Tribune, Dec. 19, 1933. Page 8.
6. N. Y. Herald Tribune, June 3, 1934. Page 22.

But in spite of all these marvelous improvements in the early months of the New Deal, the future holds no immediate solution to the problem.

Walter E. Hallett, Vice President of the Bank of Savings, New York, sounds optimistic when he says, "As business enters the New Year it may be concluded that we are in an expanding phase which holds forth promise of progressive betterment.--- Perhaps the next rise will carry us a little farther than any of the others and the recession will be proportionally less."[7]

But from another source comes the report that "Granted an improvement in conditions of today, the present number of unemployed cannot possibly be entirely taken care of by industry, agriculture and business for some years to come. It therefore becomes necessary to think in terms of a long-time program which will meet what is called the 'unemployment problem.'"[8]

In a summary of business conditions in the United States, made by the Federal Reserve Board, and issued by the Federal Reserve Bank of New York on Jan. 1, 1935, we are informed that, "Factory employment declined between the middle of October and the middle of November by the usual seasonal amount and was at the same level as a year ago. Declines reported for the Automobile, Shoe, and Canning Industries were smaller than seasonal, while decreases at railroad repair shops and saw mills, were larger than are usual at this season. At meat-packing establishments, where employment has been at a high level in recent months, there was a considerable decline but

7. N. Y. Herald Tribune, Jan. 2, 1935. Page 22.
8. The American Observer, Nov. 12, 1934. Vol.IV. No. 11. Page6.

the number on the payrolls in November was larger than in the corresponding month of other years. Employment at woolen mills showed a substantial increase. The number employed on construction projects of the Public Works Administration declined further in November, according to the Bureau of Labor Statistics."[9] In the "Review" we also find, "The Federal Reserve Board's index of factory employment in the United States, adjusted for seasonal variation, was unchanged, from October to November at 77 per cent of the 1923-25 average."[10]

B. It Has Raised Wages.

There was not only an increase in employment in the early months of the N.R.A., but there was a distinct increase in total payrolls due to wages having been raised by wage provisions in the codes. In Babson's Reports of Oct. 9, 1933, we learn that "The record high total of 2089 wage increases last month exceeds the highest monthly total of wage reductions during the past four years and has resulted in substantial gains in earnings for thousands of workers. These are in addition to the payroll increases which have become effective through the adoption of the various N.R.A. Codes .-----.

"The September use (of goods and men) represents the 6th consecutive monthly gain and brings employment and payrolls up to the levels of the second half of 1931. Employment is now 27.9% higher than in the corresponding period of 1932, and payrolls have gained 43%."[11]

9. Monthly Review, Federal Reserve Bank, New York, Business Conditions in the United States, Jan. 1, 1935. Page 6.
10. Ibid. Page 6.
11. Babson's Reports, Oct. 9, 1933. Page 5.

Enough for generalities. Now for some specific improvements in particular industries.

The steel code "Submitted to Johnson in behalf of 90 per cent of the industry, it provides a 15 per cent rise in wages--. Pay rises for 100,000 in Eastern and Western plants were announced to start Monday."[12.]

At a later date the report "From the steel code was that its complete application including the new eight hour day provision, would add $64,000,000 annually to steel pay rolls. This figure is now regarded as too low and present estimates place the amount nearer $100,000,000 a year."[13.]

In the wool code, "A minimum of $14 for a forty-hour week in the North and $13 in the South is set in the code filed at Washington."[14.]

The Textile Industry was one of those which showed the greatest gain. "The code,----guarantees for every worker at least $12 a week in Southern and $13 a week in Northern mills.--- Minimum wages in some Southern cotton mills have been as low as $4 to $6 a week for some types of work.----- The code will bring to thousands an automatic wage increase, as the $12 and $13 are minimum wages with higher scales prevailing for skilled workers."[15.]

A later report by George A. Sloan, President of the Cotton-Textile Institute was to give actual facts. He writes that "The average for seven occupational groups in 1932 that earned,

12. N. Y. Times, July 16, 1933, Sec. 1. Page 1.
13. N. Y. Herald Tribune, Sept. 20, 1933. Page 2.
14. N. Y. Times, July 16, 1933. Sec. 1. Page 1.
15. Ibid. Page 15.

according to government reports, more than the minimum wage now prescribed by the code, was 34.9 cents an hour; in August, 1933, the average for the same group was 43.9 cents per hour, or an increase in the hourly rate of 25 per cent. Furthermore the August, 1933 rate for this group was about 40 per cent in excess of the code minimum."[16]

At the time the textile strike was called off, General Johnson in a statement concerning the settlement said that "Between April, 1933, and April, 1934, pay rolls in this industry increased over 100 per cent.---- Average actual weekly earnings increased between March, 1933, and February, 1934 about 35 per cent.[17]

"The women's clothing industry," according to a survey by Secretary Perkins, "showed a wage rate raise from 34.4 to 43.3 cents----. The corsets and allied garments industry registered a wage rate increase from 35.3 cents to 41.3 cents---."[18]

In the same report, Miss Perkins says that "The cotton goods industry, on the basis of Bureau of Labor Statistics figures, showed an hourly rate increase from 23.2 cents per hour to 36.1 cents---. Wage rates in the woolen and worsted goods industry went from 35.8 cents to 43.3 cents----."[19]

"General Johnson advised President Roosevelt that manufacturers of automobiles operating under the code reported that------total pay rolls increased from $12,700,000 in July,

16. Boston Evening Globe. Oct. 18, 1933. Page 4.
17. N. Y. Herald Tribune. June 3, 1934. Page 6.
18. U. S. News. Sept. 16-23, 1933. Page 1. Survey by Secretary of Labor Perkins Comparing Conditions July 15, and Aug. 15.
19. Ibid. Page 1.

to $14,700,000 in September, or $2,000,000 amounting to 16 per cent."[20]

The enforcement of minimum wages was a fact as well as a reality, for on December 15, 1933, "The backing of the Regional Labor Board was given yesterday to the recent state minimum wage provisions for laundry workers, when it ordered the Independent Laundry Co., 361 Herzl Street, Brooklyn, not only to comply with the law, but to reinstate striking employees affiliated with the Laundry Workers' International Union. Beyond this, the board ordered a 5 per cent increase in wages for all workers earning between $20 and $30 a week, at the time the strike began, a 10 per cent increase for those earning less than $20, and recognition of the union."[21]

Total wage payments were also increased by restitutions in back wages to employees, due to violations of wage provisions in the codes. "The National Recovery Administration--made public a survey showing that wage restitutions in the last year had amounted to about $2,000,000.------

"The survey released today covering the first year of the N.R.A. compliance division's activity, showed that from Oct. 26, 1933 to June 16, 1934, restitutions through intervention of the division were more than $1,000,000, and from June 16 to October 13 the amount had been $900,303.86 paid to nearly 50,000 workers. During the two-week period, October 1-13, Compliance Division field officers reported---payments of back wages amounting to more than $110,000, the fifth consecutive two-week period the restitutions have exceeded that figure."[22]

20. N. Y. Herald Tribune, Dec. 19, 1933. Page 8.
21. N. Y. Herald Tribune, Dec. 15, 1933. Page 12.
22. N. Y. Herald Tribune, Oct. 28, 1934. Page 15.

Three days later, Oct. 31, 1934, we have another report of wage restitution. This report says that "The total amount of back wages restored to employees in the Cotton Garment Industry through the work of the Compliance Division of the Code authority amounted to $323,000 up to September 29, and about 60,000 employees shared in the restitutions,-----"[23.]

As was learned above from Babson's Reports, the number of wage increases were very great, but from the A. F. of L. and the Secretary of Labor, we get a picture of the increases in dollars. According to the monthly survey of business issued by A. F. of L. "The recovery program has poured new purchasing power into the market at the rate of $5,000,000,000 a year, ample to raise the total retail sales 17 per cent.---

"Incomes of wage and salary workers were higher by $286,000,000 in July than in March, amounting on a yearly basis to a gain of $3,444,000,000."[24.]

While a later report of "The Secretary of Labor Frances Perkins, announced---that reports on conditions from July 15 to Aug. 15, during which the President's Reemployment Agreement became effective, indicate that payrolls were increased $12,000,000."[25.]

The above facts show a very fine and encouraging condition, but as we shall see later, these conditions were not to be permanent.

C. It Has Improved Labor Union Conditions.

Labor was fortunate in having a National Labor Board that

23. N. Y. Herald Tribune, Oct. 31, 1934. Page 29.
24. N. Y. Herald Tribune, Sept. 2, 1933. Page 2.
25. United States News, Sept. 16-23, 1933. Page 1.

was thoroughly favorable to its interests as is shown from the many decisions which follow which enhanced and improved labor's union conditions. In one of the earlier cases, National Lock Company, and Federal Labor Unions #18830, the National Labor Board assured workers of the right to collective bargaining. The board in its decision on this case said, "The collective bargaining envisaged by the statute involves a quality of obligation--an obligation on the part of employees to present grievances and demands to the employer before striking, and an obligation on the part of the employer to discuss differences with the representatives of the employees and to avert every reasonable effort to reach an agreement in all matters in dispute. Negotiations should precede rather than follow the calling of a strike. But no matter how grievous the fault of the employees may have been in striking before exhausting every possible means of reaching an amicable adjustment of differences, there was and can be no justification for the infringement by the employer of the statutory rights of his employees."[26.]

The above case was decided February 21, 1934, and since then the National Labor Board has stuck to that decision. In the case of U. S. L. Battery Corporation and Battery Workers' Federal Labor Union, No. 19130, decided April 13, 1934 it said in its decision that "The National Labor Board has frequently ruled that an employer is obliged to recognize the representatives duly selected by his employees and to bargain collectively with them."[27.]

26. Decisions of the National Labor Board, Aug. 1933--March 1934 U. S. Government Printing Office, Washington, D.C. 1934 Page 19.
27. Ibid. Part II, April, 1934--July,1934. Page 6.

In the Eagle Rubber Co. and United Rubber Workers' Federal Labor Union #18683 decided May 16, 1934, it again upheld its former position by insisting that "The statute requires the employer to meet with the duly chosen representatives of its employees, whether an employee or an outside union, and to negotiate actively in good faith to reach an agreement."[28]

When the National Industrial Relations Board came into power, they continued to uphold the decisions of the former body, the National Labor Board. The new board was thoroughly convinced of the principle of collective bargaining as is shown in the Johnson Bronze Company and International Brotherhood of Foundry Employees Local No. 92, Case No. 108, Decision given Oct. 3, 1934, and B. F. Goodrich Company, Goodrich Cooperative Plan and the United Rubber Workers' Federal Labor Union, Local #18319, Case No. 155, Decision given Nov. 20, 1934.

In the former case the company "Was directed to meet with representatives of the employees without excluding any representatives merely because they were not employees."[29] In the latter case the conclusion of the Board was "That it is in the public interest that an election by secret ballot of the employees of the production and maintenance department of the B. F. Goodrich Company should be had to determine whether they desire to be represented by the Goodrich Cooperative Plan or by the United Rubber Workers Council for the purpose of collective bargaining as defined in Section 7(a) of the National Industrial Recovery Act and incorporated in Public Resolution no. 44 of the 73rd Congress."[30]

28. Ibid. Part II. April, 1934--July, 1934. Page 33.
29. Immediate Release No. 169. Oct. 4, 1934 National Labor Relations Board. Washington, D. C. Front Page
30. Immediate Release No. 209. Nov. 21, 1934. Page 5. Case No. 155.

One of the leading decisions of the Labor Board gave the right to employees to be represented by persons not employees. This case, United Textile Workers vs. Berkeley Woolen Mills, Martinsburg, West Virginia, was decided Sept. 6, 1933 and was Release #739, Sept. 12, 1933. The important part of the decision reads, "We fail to see how it is possible to put any interpretation on the phrase 'representatives of their own choosing' which would make it necessary for employees to choose these representatives from a particular class or a particular group. The statement to the effect that representatives must be chosen by the employees cannot by any reasonable interpretation be deemed to mean that representation must be chosen from the employees. To give the code the interpretation sought by the company would nullify the employees' right to organize as they choose, for, in effect, it would limit each employees' organization to the individual plant, and would prevent the employees of a plant from joining any organization already in existence.----.

"The National Labor Board Rules, therefore, that employees have a right to choose anyone they may wish as their representative and are not limited in their choice to fellow employees."[31] No one can accuse the Board of evading the issue or of not being clear in their exposition.

The second very significant case, United Automobile Workers' Federal Union #18763 vs. E. G. Budd Mfg. Co. of Philadelphia, was decided December 14, 1933 and was Release no. 2283. In

30. (Continued) National Labor Relations Board, Washington, D.C.
31. A Handbook of the N.R.A., By Mayers 2nd Edition. Federal Codes, Inc., N. Y., 1934. Page 142.

this case, the Board decided that it was the employers' obligation to meet persons claiming to represent the employees. Excerpts from this case follow:

"Both the selection of a form of organization and the designation of representatives, as well as the method of designation, are placed by Section 7(a) within the exclusive control of the workers. The law does not tolerate any impairment of the freedom of self-organization.----

"If the committee represents a majority of the employees, the company's refusal to recognize them as representatives for the purpose of collective bargaining was wrongful.---

"It is not for the employer or for this Board to dictate the type of organization which should be established. Once the employees determine the nature and extent of the organization which they are forming, it is incumbent upon the employer to meet for the purpose of collective bargaining those who represent a majority of the class of employees which their organization is designed to cover."[32]

"The Board also ordered an election to take place, but another "Election was held at the request of General Hugh S. Johnson, who disregarded a ballot on the representation question ten day ago--which he had ordered postponed at that time.

"Opposition to the balloting developed because the only question on which the workers were asked to vote was: 'Do you favor representation by the United Automobile Workers' Federal Union, 18,763, of the American Federation of Labor?' Many

32. Ibid. Pages 143-4.

workers contended this meant that those who did not vote, cast, in effect, a ballot against the union."[33.]

After that we fail to find anything about the final outcome of these cases. The National Labor Board had no power to enforce its decisions, and so were helpless unless the Department of Justice cooperated in requiring compliance. This they failed to do in many cases.

What of the employer who intimidates his employees who seek to organize? In the case of Wisconsin State Federation of Labor, International Boot and Shoe Workers' Union, and Workers' Union Local #170 vs. Simplex Shoe Mfg. Co., it was decided by Circuit Judge Gregory in the Circuit Court of Milwaukee County, Wisconsin, Oct. 13, 1933, that a "Labor organization (is) held entitled to enjoin employer, who has signed (the) President's Reemployment Agreement, from interfering with (the) right of employees to join such organization."[34.]

"It ruled that the reading of a statement by officers of the company, indicating that it might have to shut down, constituted a violation of the right of employees to organize freely and to bargain collectively through representatives of their own choosing, and interference, restraint, and coercion in the designation of such representatives.

"It also held that the employers practice interference when they had foremen present at the doors of a meeting hall with pencil and paper in their hands, prepared to take down the names of employees attending a union meeting."[35.]

33. N. Y. Herald Tribune, March 21, 1934. Page 2.
34. A Handbook of the N.R.A., By Mayers 2nd Edition. Federal Codes, Inc., N.Y., 1934. Page 145.
35. The U. S. News. Oct. 28, 1933. Page 5

In the case of Floramon Fryns et al v. Fair Lawn Fur Dressing Company, Court of Chancery of New Jersey, Nov. 15, 1933. (114 N. Y. Eq. 462), it was held that the "Plaintiffs, striking employees of defendant employer who has signed (the) President's Reemployment Agreement (are) held entitled as beneficiaries of such agreement, to injunction restraining defendant from imposing as a condition of their reinstatement that they join a union designated by him."[36]

Vice Chancellor Bigelow said in part: "Defendant could not, without breach of its agreement, coerce them (his employees) into a different organization or compel them to accept as their representatives an agent of the Fur Workers' Union----If a majority of the employees are members of a particular union or desire to organize within a particular union, the employer cannot dictate to them another union.----

"Defendant admits that it has made the reinstatement of complainants conditional on their joining the Fur Workers' Union. With that union only will it bargain. This, as I view the case, is a violation of the contract, and complainants may have a remedy for the wrong in this court. The irreparable injury which complainants may sustain pending final hearing is apparant. There should be interlocutory restraint in the matters above discussed."[37]

As far back as Sept. 22, 1933, it was definitely ruled that "The N.I.R.A. does not impair the right of a bona fide labor union to agitate <u>peaceably</u> for a closed shop." In the

36. A Handbook of the N.R.A. By Mayers 2nd Edition. Federal Codes, Inc., N. Y. 1934. Page 151.
37. Ibid. Page 156.

case of Buckingham Cafeteria, Inc. v. Mesevich et al (Supreme Court, New York County, N. Y. Sept. 22, 1933) 90 N.Y. Law Journal 962, Judge McGeehan said, "I find no reason for construing the National Industrial Recovery Act as being designed to upset the law that bona fide labor unions have the right to peaceably agitate for a closed shop----The motion (for an injunction) is denied with leave to renew if later there be a holding that the National Recovery Act forbids a union to peaceably agitate for unionization or if the union commits any act of violence."[38.]

"Compliance by employer with code (is) held not to render call of strike illegal." In other words, an employee has the right to call a strike against the employer even though he is complying with the code. Such was decided in Robbins et al vs. Altenberg et al, Supreme Court, New York County, N. Y., Nov. 9, 1933. 90 N. Y., Law Journal 1690. Judge Costello said, "I cannot say that I agree with the theory intimated by plaintiffs that compliance with the N.R.A. Code, even beyond the minimum there provided, makes the call to strike illegal per se."[39.]

"In order to bring about a condition in harmony with the requirements of Section 7(a) of the National Industrial Recovery Act, the National Labor Board" rules in Fifth Avenue Coach Company and the Amalgamated Association of Street and Electric Railway Workers and Motor Coach Employees, Local 994, April 16, 1934:

38. Ibid. Page 156 (underscoring mine)
39. Ibid. Page 161.

"1. That those employees who were discharged after Oct. 2, 1933, and whose discharges were found by the New York Regional Labor Board to have been the result of their union activity be immediately reinstated in their former positions with the company.

"2. That William J. Rupy, Michael McCarthy, Patrick Kitson and James Frawley be immediately reinstated in their former positions, unless within ten days after the issuance of this decision, the company presents proof to the New York Regional Labor Board which, in the opinion of that Board, shows that the discharges of these men were not caused by their union activity.

"3. That the company cease annoying, watching, and intimidating their employees' families with the object of hindering their employees in the exercise of rights granted by the National Industrial Recovery Act.

"4. That an election be held under the supervision of the New York Regional Labor Board so that the employees of the company may have an opportunity to exercise a free choice in the designation of representatives for collective bargaining, and that the company cooperate with the New York Regional Labor Board in its conduct of such election.

"5. That the company bargain collectively with

the representatives chosen in this election."[40]

The fact that "The Fifth Avenue Coach Co. did not sign the President's Reemployment Agreement and filed no certificate of compliance with the transit code,---does not exempt it from the operations of the transit code, which became effective on October 2, 1933."[41]

D. Injunctions Issued to Benefit Labor.

Rarely has labor taken the initiative in petitioning for an injunction against an employer and won the case. The impetus, which Section 7(a) has given labor, has worked wonders, for it has stimulated labor in asserting the rights granted it under the National Inudstrial Recovery Act. Three injunctions issued labor, against an employer since the Recovery Act, are very significant. Labor acquired great benefits under these injunctions.

The first one, Wisconsin State Federation of Labor, International Boot and Shoe Workers' Union, and Workers' Union Local #170 vs. Simplex Shoe Mfg. Co., already mentioned above under another heading, "The court in a long decision, held that the men were entitled to a temporary injunction restraining the company from further interference with the right of its employees to organize into unions of their own free will and choice."[42]

In a second case, "Four local unions (of Paterson, N. J.) obtained an injunction restraining----Feldink Silk Company, 52 North First Street, from moving any more machinery out of the city.

40. Decisions of the National Labor Board. Part II April, 1934--July, 1934. U. S. Govt. Printing Office. Washington, D.C. 1934. Pages 9 and 10.
41. New York Herald Tribune, April 19, 1934. Page 4.
42. The U. S. News Oct. 21, to Oct. 28, 1933. Page 5.

"Mr. Feldman, who is a manufacturer of floral silk ribbons (and owner of the above company)---had entered into a one year contract with the unions on November 1, 1933. The contract provided that sixty days notice must be given should either party decide to break it."[43]

On Oct. 18, 1934, "The American Federation of Silk Workers, Paterson District, won its first step in its effort to compel the Feldink Silk Company---to remain in Paterson under terms of a contract entered into a year ago----.

"In his ruling the vice-chancellor directed that if the concern desires to leave Paterson it must post a $2,000 bond with the court to insure employees receiving damages in the event the case goes to a final hearing and a decision is handed down adverse to the firm."[44]

And thirdly, in the case of the Doll and Toy Workers' Union vs. Ralph A. Fruendlich, Inc., doll manufacturers, Justice William Harman Black of the Supreme Court of New York ruled that the company "Had violated its agreement with the---- union enforcing a closed shop under the N.R.A. and said he would appoint a referee to assess monetary damages.

"Justice Black also ruled that the plaintiff union was entitled to an injunction permanently restraining the defendant from violating the terms of the collective agreement.---Justice Black threatened that unless the Fruendlich firm complied with the agreement he would seriously consider requiring the doll firm to remove its factory from Clinton, Mass., (where it had moved to so as to avoid the provisions of its contract with the union) back to New York."[45]

43. N. Y. Herald Tribune, Oct. 4, 1934. Page 35.
44. N. Y. Herald Tribune, Oct. 19, 1934. Page 36.
45. N. Y. Herald Tribune, Jan. 6, 1935. Page 9.

E. Dry Goods Firm Must Withdraw all Support from Company Union.

What support then may a company give to a company union without violating the collective bargaining provisions of Section 7(a)?

In the case of the Ely and Walker Dry Goods Company of St. Louis, the National Labor Relations "Found that the company had contravened Section 7(a) 'by failing to bargain collectively in good faith' with Wholesale House Workers' Unions Local No. 8,316, and 'by initiating, sponsoring and giving continued financial support to a company union, the Ely and Walker Employee and Management League."[46]

The Board consequently directed them "To withdraw all support of its company union, and dictated the following requirements:

"1. Withdraw all financial support from the Ely and Walker Employee and Management League.

"2. Cease from soliciting memberships in the league or from suggesting to employees that they should or could join the league, and instruct all supervisors and foremen to cease from such solicitations or suggestions.

"3. Recognize the Wholesale House Workers' Union, Local No. 18,316 which represents a conceded majority of the employees in the four departments concerned, as the exclusive collective bargaining agency for employees in those departments.

46. N. Y. Herald Tribune, Sept. 28, 1934. Page 35.

"4. Withdraw any recognition from the league as a collective bargaining agency.

"5. Negotiate in good faith with the union and make reasonable efforts when called upon to do so to arrive at a collective agreement concerning terms of employment of the employees in the four departments.

"6. Notify all employees by the posting of bulletins or other suitable means that the foregoing steps are being taken, and that no employee who resigns from the League will be discriminated against."[47]

F. Majority Rule Upheld in Bargaining.

It has been an American institution that the majority should rule the group, but the same rule when applied to labor evidently becomes something foreign. However, the National Labor Board and the National Labor Relations Boards are convinced and have ruled that the chosen representatives of a group should have the sole power to bargain for the entire group.

The first case where this principle was applied was the Houde Engineering Company and United Automobile Workers' Federal Labor Union #18839. This case came before the National Labor Board for a hearing February 6, 1934, and a decision was rendered March 8, 1934. The company had failed to appear at the hearing, but the Board nevertheless went ahead in the matter of adjusting the differences between the union and the company. In its decision, the Board ruled that "The Company

47. Ibid. Page 35.

is obligated to bargain collectively with the representatives selected by the majority in such a poll.---

"The National Labor Board therefore rules that the Buffalo Regional Labor Board, if requested by a substantial number of the employees, shall conduct an election to enable the employees of this company to choose representatives for the purpose of collective bargaining or other mutual aid or protection."[48.]

The election was held and the above labor union won the election from the plant union. "The company insisted the plant union be represented in making any working agreement. The Board overruled the company's contention."[49.] Therefore, "The company notified the board yesterday it could not comply with the board's order that it recognize the American Automobile Workers' Union----as the exclusive representatives of its employees for collective bargaining."[50.]

On Sept. 14, 1934 the case was put into the hands of the Justice Department by Lloyd Garrison, chairman of the Labor Relations Board, because the company refused "To recognize an American Federation of Labor unit as representing all its employees, although a minority favored another union."[51.] The N.R.A. on Sept. 15 "Removed the Blue Eagle from the Houde Engineering Company of Buffalo, on the strength of findings of the National Labor Relations Board."[52.]

48. Decisions of the National Labor Board. Aug, 1933 to March 1934. U. S. Govt. Printing Office, Washington, D. C., 1934. Page 87.
49. N. Y. Herald Tribune, Sept. 12, 1934. Page 4.
50. Ibid. Page 4.
51. N. Y. Herald Tribune, Sept. 15, 1934. Page 2.
52. N. Y. Herald Tribune, Sept 16, 1934. Page 2.

About a month after the Eagle was taken away, the "Department of Justice announced it would not prosecute the Houde Engineering Corporation of Buffalo." The reason given was "Insufficient evidence to justify prosecution."[53] However, on Nov. 21, 1934, Francis Biddle, new chairman of the Labor Board, said he was ready to "crack down" on the Houde firm, and that his first move would be to file an injunction suit.[54]

The second case of importance where the question of majority rule was raised, was that of the Kohler Company and the A. F. of L. Union of Kohler Workers, No. 18,545. "The Kohler Company would recognize them (A. F. of L. Union), receive them, bargain with them. The point he (Walter J. Kohler) would not yield to was that these should have the sole power to bargain, not only for themselves, but for the whole body of Kohler employees, whether the others should wish it or not. And that at last was the crucial point: Whether or not one group of employees--the A. F. of L. Union group---should have the supreme bargaining power."[55]

On Sept. 15, 1934 "The Labor Relations Board gave out a decision--ordering an election among Kohler employees on the question of representation for purposes of collective bargaining."[56] The results were not as the union expected. "Employees of the company voted yesterday 1,063 in favor of the Kohler Workers' Association, a company union, and 643 for the A. F.of L. Union as the sole bargaining agent under the N.R.A. The

53. N. Y. Herald Tribune, Oct. 12, 1934. Page 2.
54. N. Y. Herald Tribune, Nov. 21, 1934. Page 4.
55. Saturday Evening Post. Oct. 27, 1934. Pages 78 & 80.
56. N. Y. Herald Tribune, Sept. 16, 1934. Page 2.

election was---seeking to end the strike existing at the plant near here since July 16."[57]

A third case under majority representation was that of National Aniline & Chemical Company and Analine Chemical Workers' Local #18705. On Oct. 3, 1934 "The National Labor Relations Board in the case of the National Aniline and Chemical Company, of Buffalo, ruled that it is not a fulfillment of collective bargaining requirement in Section 7(a) for an employer merely to receive the representatives of his employees, discuss terms of employment with them, and act upon such of the demands put forth as are satisfactory to him.

"The statute imposes duties consistent with its purpose. It contemplates that the demands of the employees, or modifications of such demands, if acceptable to the employers, be embodied in an agreement, and that such an agreement bind both parties for a certain period of time."[58]

In summing up the majority rule question, it is necessary to examine two very significant opinions. The one of the National Labor Relations Board expressed at the time of the Houde Engineering Corp. which in this writer's opinion is one of the finest, best, and most thorough. "This Board," says the N.L.R.B., stands upon the majority rule. And it does so the more willingly because the rule is in accord with American traditions of political democracy, which empower representatives elected by the majority of the workers to speak for all people."[59]

57. N. Y. Herald Tribune, Sept, 29, 1934. Page 30.
58. N. Y. Herald Tribune, Thurs. Oct. 4, 1934. Page 2.
59. Release No. 141. Sept. 1, 1934. National Industrial Relations Board, Case no. 12. Washington, D. C. Page 7.

The other opinion is that of General Hugh S. Johnson, from whom we would be least likely to expect one. It sounds as if he were making amends to labor for what happened in the textile strike. It is all the more significant because it comes from him. In his writings for the Saturday Evening Post on the N.R.A., in the article entitled "The Future", he says under "The Labor-Management Problem", "My specific suggestions briefly are:

"By statutory revision:

"1. To put Section 7(a) beyond the question of doubt as to its meaning and specifically to provide

(a) That when a majority of employees select a certain form of organization, no other parallel organization shall be recognized.

(b) That no employee shall be required, as a condition of employment to join that or any other organization."[60]

The Labor Board in a later ruling from the above mentioned ones, went even further than requiring majority rule, it went as far as requiring a company to "Give ear to the demands of workers" and "Should show 'sincere desire' for agreement.

"In the case of the Atlanta Hosiery Mills and the American Federation of Hosiery Workers, Local 76, the board unequivocally held that union demands, if acceptable to the employer, be embodied in an agreement."[61]

G. Recognitions of Union and Reinstatements of Workers Under Section 7(a

Many adjustments have been made by the Labor Board and its

60. Saturday Evening Post. Jan. 12, 1935. Page 77.
61. N. Y. Times, Nov. 7, 1934. Page 23.

regional offices, whereby unions have been recognized and workers reinstated in cases which have been enforced under Section 7(a). In the Electric Auto-Lite Plant a settlement was reached on June 2, 1934, and "Virtual union recognition was conceded by the company as no mention of the company union was made in the agreement; the A. F. of L. union being given the right to act for all employees."[62.]

In a settlement of a dispute between the "big four" unions and the Delaware and Hudson Railroad, one of the terms was "Recognition of the Brotherhood of Engineers". Formerly "All questions of wages and working conditions were taken up directly with each engineer."[63.]

The case of Fifth Ave. Coach Company and the Street and Electric Railway and Motorcoach Employees, has already been taken up above under a separate heading. The Labor Board ruled on April 18, 1934 that the company must deal with representatives chosen at the election which the Board ordered, and also that the company must reinstate employees discharged because of union activities.

President Frederick T. Wood of the company said, "For the company to undertake to adjust or discuss its relations with employees other than in accordance with the system of collective bargaining and representation adopted by the employees, would not only be contrary to the spirit of the National Recovery Act, but would constitute a breach of faith on the part of the company with its employees. The company intends to deal with the representatives chosen at the election of March 20."[64.]

62. N. Y. Herald Tribune, June, 3, 1934. Page 16.
63. N. Y. Herald Tribune, March 23, 1934. Page 8.
64. N. Y. Herald Tribune, April 19, 1934. Page 4.

In other words, the company was to "Defy the edict" of the Labor Board, and abide by the election of the company union already held.

"The reinstatement of eight bakery workers and five drivers recently discharged by Cushman's Sons, Inc., bakers, 1819 Broadway, was announced yesterday by the Regional Labor Board, 45 Broadway. Officials of the Amalgamated Food Workers' Union charged that the men were discharged because of union activity. Their reinstatement was agreed upon at a conference between Ben Golden, Executive Secretary of the Regional Labor Board; Samuel Miller, Counsel to the Chain Bakery, and Charles T. Lee, Personnel Manager."[65.]

Hatters and fur workers ended a strike in Danbury July 15, 1934. "The manufacturers had insisted on a clause being incorporated into any agreement that might be made to the effect that they would confer only with employees of their own establishment. The clause was waived after the labor board pointed out that it conflicted with the N.R.A."[66.]

In another fur strike involving the Fur Workers' Industrial Union of New York and the Trimming Manufacturers Association, an agreement was reach. One of the provisions of the agreement is "Recognition of the union."[67.]

"The Steel Labor Relations Board announced today (Sept. 5, 1934) the Worth Steel Company of Claymont, Del., had dropped its plan of contesting the constitutionality of Section 7(a) of the Recovery Act.----

65. N. Y. Herald Tribune, Feb. 10, 1934 Page 6.
66. N. Y. Herald Tribune, July 16, 1934 Page 3.
67. N. Y. Times, Sept. 5, 1934. Page 6.

"The board said the company also agreed to reinstate John T. Slater, a member of the Amalgamated Association of Iron, Steel and Tin Workers----

"In a brief filed at the opening of the hearing the Worth Company contended both the labor clause in the recovery act and the resolution under which the steel board was set up was unconstitutional. The company also challenged the right of the board to take jurisdiction in the Slater case."[68]

"The Aluminum Company of America 'recognizes and accepts the principles of collective bargaining' as approved in the National Industrial Recovery Act, in a compromise agreement signed today with union leaders to end a month-long strike by 8,700 men and women employees."

Among other things in the agreement was that "'There shall be no discrimination by foremen, superintendents or any other person in the employ of the company against any employee because of membership or non-membership in a labor organization or other organization.'

"The company, a Mellon interest, agrees in effect to deal with the National Council of Aluminum Workers as representatives of its members in the concern's employ.-----Any employee who has a grievance may appeal to the company and in event he is not satisfied may carry his case to the National Labor Relations Board for disposition."[69]

It seems as if these labor adjustments come in quick succession, for on Sept. 8, 1934, we are informed that "The Regional Labor Board averted a threatened strike of 2500 employees

68. N. Y. Herald Tribune, Sept. 6, 1934. Page 3.
69. N. Y. Herald Tribune, Sept.77, 1934. Page 2.

of the Brooklyn Edison Company--when a settlement was affected between the utility and the Brotherhood of Utility Employees." In the agreement, "Two former employees of the company recently discharged, allegedly for union activities, are to be reinstated and returned to work next Monday morning."[70.]

Another Sept., 1934 settlement of a labor dispute involved the International Brotherhood of Electrical Workers and the Des Moines Electric Light Company and the Iowa Light and Power Company. An agreement was reached "After a conference with Governor Clyde L. Herring." "The settlement provides for arbitration of wages and recognition disputes between a company union, the local of the International Brotherhood of Electrical Workers and Company officials.

"It called for an election among the 150 plant workers to be held as soon as possible under Federal auspices to decide which union shall have exclusive employment rights."[71.]

Another score for the month of September was made when "The Shirt Institute, through its counsel, Maurice L. Robbins, yesterday announced that its manufacturer members (which number about 1000 produce 35 per cent of the men's shirts and 50 per cent of the children's shirts, employ 15,000 persons in New York, New Jersey, Pennsylvania, Rhode Island, Connecticut, Massachusetts, West Virginia, and Delaware) had accepted the President's order, effective October 1, reducing hours of work from forty to thirty-six a week and increasing wages 10 per cent, according to the Associated Press."[72.]

70. N. Y. Herald Tribune, Sept. 8, 1934. Page 19.
71. N. Y. Herald Tribune, Sept. 21, 1934. Page 6.
72. N. Y. Herald Tribune, Sept. 25, 1934. Page 29.

Of course, the above mentioned settlements are by no means the only ones accomplished, but they do show the kind of good work that the Labor Boards are doing in adjusting the differences between employers and employees.

Chapter V

DETRIMENTS TO ORGANIZED LABOR ACQUIRED UNDER SECTION 7(a).

A. The Wage Provisions of the Codes May be More Damaging than Helpful.

Section 7(a) which labor wanted so much in the National Industrial Recovery Act has done much to enhance labor's position under the sun. On the other hand, the provisions in the codes which were a result of Section 7(a), also reacted quite unfavorably to labor so as to be a hindrance rather than a blessing.

Because we live in a capitalistic society where competition is a very great factor, and costs of production must be watched very closely, we find that the wage provisions of the codes may be more damaging than helpful to labor. Isaac Don Levine in his article "Which New Deal" in the Saturday Evening Post, says "The minimum-wage-fixing policy of the N.R.A. is destructive of the very purpose which it seeks to achieve."[1]

The point is we have not been able to find a way of increasing distribution to a point where the greater volume of production will be absorbed and thereby increase wages without increasing costs. In trying to be magnanimous, the employer must watch the affect of his generosity on his profits, thereby preventing him from being as big hearted as he might want to be.

1. The Saturday Evening Post, June 30, 1934. Page 77.

William Green, President of the A. F. of L., in his address to the 53rd annual convention in Washington, D. C., held during October, 1933 said, "Labor fully realizes that the hours of labor and the minimum rates of pay established in the industrial codes are unsatisfactory. The maximum hours of labor are too high and the minimum rates of pay are too low."[2.]

Elsewhere we read that "Wages of $12 and $15 a week, the Code's general standard, are low enough so that only in the worst sweated industries have there been large numbers of workers who were receiving less."[3.]

In the American Federationist, William Green says, "Many studies have been made to determine the amount necessary for a worker's family to live in health and efficiency. Professor Nystrom of Columbia University summarized them in 1929. Bringing his figures up to date with living costs as of December, 1932, we find the minimum necessary to support a family of 5 in health and efficiency is $31 a week with an $11 wage, even if two people in the family were working full time, they couldn't possibly keep their family in health and efficiency."[4.]

In a later number of the Federationist in an article "Measuring Workers' Progress", we read "Since the bank crisis, the average worker's weekly income has risen 7.4 per cent (to October, 1934) but prices the worker has to pay for his living expenses have risen much more than this. Food prices are up 18 per cent (to Nov. 21, 1934), prices of clothing and furnishings

2. N. Y. Herald Tribune, Oct. 3, 1933. Page 5.
3. New Republic 76:33, Aug. 30, 1933. The Crisis in the N.R.A.
4. American Federationist, 4:802, Aug. 1933.

are up 26.3 per cent (to November, 1934). Thus the worker who had a job right along is worse off than he was when the year began; his pay envelope may be larger but it buys less."[5]

The affect of higher wages on costs of production without increasing volume of production, has been felt greatly by labor which is also the consumer of the products it makes. This was very plainly expressed by Wm. Green in his address opening the Washington Convention of the A. F. of L. in 1933. He said, "While purchasing power had been increased generally by new employment, the average monthly income of the individual had gone up only 6.9 per cent while living costs had increased 7.1 per cent."[6] Mr. Green also warned "That wages lag behind rising prices", and "That labor would stand 'unflinchingly' against inflation."[7]

Again quoting Isaac Don Levine in the Saturday Evening Post, we read,"All past experience has demonstrated that raising real wages by fixing nominal wages is like making a river flow upstream. It is the nature of profit to pass the increased wage on to the consumer. Therefore, it becomes necessary to try to restrict profits by fixing prices."[8]

General Hugh Johnson in the early part of the administration of the N.R.A. said, "It means that you will have to employ more people to do the same amount of work and that will increase your cost of doing business. Of course, the consuming public will eventually pay for this."[9]

5. American Federationist, Jan, 1934. Page 42.
6. N. Y. Herald Tribune, Oct. 3, 1933. Page 5.
7. Ibid. Page 5.
8. The Saturday Evening Post, June 30, 1934. Page 78.
9. United States News, July 22-29, 1933. Page 9. (

In the October, 1934 monthly bulletin of The National City Bank of New York we read, "The policy of the Recovery Administration has been that of raising wages and spreading employment, the purpose being to increase the purchasing power of the wage-earners. The prospective rise in costs and prices stimulated an outburst of buying and of industrial activity last year, but it also caused a rise of prices to consumers which inevitably decreases consumer purchasing power."[10.]

With a minimum wage fixed by legislatures it becomes very apparent that industry will only employ such men who, within their judgment, can earn the amount fixed by law. Therefore, many employees not worth the minimum wage will be thrown out of work. "Charles H. Stone, dyestuffs manufacturer of Charlotte, N.C., predicted that between 12 and 15 million negroes would be thrown out of employment in the South if Codes with the prevailing differentials continued to be approved.

"At the hearing Mr. Stone said that white men were one third more efficient than negroes, suggested discrimination in the codes to give negroes 20¢ an hour, whites 25¢ to 30¢. The only ray of hope he saw for Southern industry was that as a result of the Codes, the South would become more highly mechanized, displacing many men.

"Other industries have made similar plans, pointing out that the only advantage of Southern industry was its low-cost labor, and objecting to a wage increase because it gave their workers too much money, 'ruined' them so they would work only 2 to 3 days a week."[11.]

10. Monthly Bulletin, City N. Bank N. Y. Oct. 1934 Page 158.
11. Business Week, Sept. 23, 1933. Page 9.

Of course wage differentials due to rival differences intensify race wars and race hatred. The N.R.A. should not deteriorate to such a level. The objection to wage increases "Because it gave their workers too much money" is an old theory, and shows that industry has not progressed beyond the 18th century times. It shows an admittance of failure to educate the people in bettering their standards of living. Industry invents some pretty weak excuses to avoid paying what they should. There is a great deal of truth to Mr. Stone's statements for under our present conditions we cannot expect anything different.

Another problem is the allocations of industry to certain sections of the country to avoid paying higher wages where there are geopraphical differentials in wages. In connection with the soft coal code we read, "It offers a wage differential of only 5% between Southern coal operators and union dominated operators which Southern operators say threaten the livlihood of at least 3,000,000 people and the marketing and transportation of coal from Southern Coal fields. Virtually, it means allocation of markets to a restricted coal producing region."[12]

And again we read, "The building-marble people of the South report that the differential throws all their business to Vermont. Lumber men complain that the Negroes probably would not work all week if they got such big wages as 24¢ an hour. The laundry industry say a serious threat of turning much of their business back to the colored washlady under wages that double present scales."[13]

12. Manufacturers Record, August, 1933.
13. Business Week, Sept, 23, 1933. Page 10.

Another problem which minimum wages makes evident is the displacing of older and less efficient men by younger and more energetic and efficient men. In the "Nation" of Sept.30, 1933 we read that "The new minimum wage may result in raising the income of some of the workers and in forcing the laying off of others entirely, especially the older ones."[14]

Professor Fetter has said that "The unquestioned service of the minimum wage law is that of diagnosing the evil of low wages rather than in remedying it. The minimum wage law brings to light the industrial incapacity of particular individuals to earn a living."[15]

Another very vital question which the minimum wage provisions of the codes will answer is whether a man will increase his efficiency to the same extent as his increase in wages. If not, then these increased wage scales will increase mechanization and thus increase unemployment. R. H. Rositzke, Management Consultant has said that "Cost-minded executives realize that increased labor costs plan an increased premium on their reduction. All efforts are being made to improve the productivity of existing equipment. This they hope to accomplish through application of all available production increasing attachment."[16]

In "A Report on Coal", Dr.Alexander Sach, Director of the Division of Research and planning, National Recovery Administration reports that "From 1,880,000 tons loaded by machines in 1923, mechanized bituminous tonnage has increased to 47,500,000 tons in 1929. Mechanical loading has been in-

14. Nation, 137:311, Sept. 20, 1933
15. Modern Economics Problems, By Frank A. Fetter. The Century Company, N. Y., 1934.
16. Factory Management and Maintenance, 91:408, Oct. 1933.

troduced chiefly in the union fields paying high wages where the savings in labor costs are naturally greatest."[17.]

Albert Evans writing for the "Nation", remarks "It may have been less costly to employ 5 girls at $2 per day than to purchase an addressograph, but the latter may prove considerably cheaper if the five girls have to be paid $3 a day."[18.] John Strachey in another article entitled "The Two Wings of the Blue Eagle", says "For not only has the N.R.A. made hand workers a costly luxury, but it has canalized the whole force of intercapitalist competition into the one field of higher and higher mechanization, for it has forbidden competition on wages, hours, or prices. Thus the only remaining form which the struggle between different capitalists for the shrinking market can take is the struggle for the best machines. And in this struggle the big capitalist must, of course, always win."[19.]

Now the question arises, to what extent do wage provisions in the Codes affect the higher wage men? The N.R.A. has been accused of resulting in drastic wage cuts for the men in the higher wage scale. At the first hearing on a general retail fair competition code held on August 22, 1933, A. E. Ogden, of Boston, told Administrator Johnson, "One danger is that the merchants may feel obliged to come within the code by discharging their higher-priced employees and employing cheaper workers."[20.]

In Business Week we read that "Where Codes cut down the

17. New Republic, 76:64, Aug. 30, 1933.
18. Nation 137:346 Sept. 27, 1933.
19. The Nation, Jan. 10, 1934. Page 42.
20. N. Y. Herald Tribune, Aug. 23, 1933. Page 2.

work week in plants that have been running beyond the new minima, they cut down the size of the weekly pay envelope for all employees who have been drawing more than the new minimum wages, and workers who have been, in some cases, sharing work voluntarily over long periods, are no longer content to carry on."[21.]

Albert Evans, in the same article mentioned above in the "Nation" magazine, says "Although the Codes prohibit the reduction of the weekly wages of workers who have received higher than the minimum prescribed, there is no possible way of enforcing this stipulation. It is not necessary for any employer to go through the motions of an official reduction. Since nothing in the Codes prohibits dismissals and lay-offs, he need only inform his older or higher-paid employees that for one reason or another he is compelled to reduce his force. American trade-union experience shows that many workers volunteer to accept a reduction in their wages in order to stay on. At the worst, an employer can dismiss or lay off his expensive workers and rehire them later at a wage more nearly approaching the minimum set by the Code."[22.] Further on he says, "Employers will discover before long that many of those who were formerly considered cheap and inefficient workers are really endowed with considerable talent and can do almost as good work as was done formerly by employees who received twice or more the minimum wages specified in the Codes."[23.]

21. Business Week, Oct. 7, 1933. Page 3.
22. Nation, 137:346, Sept. 27, 1933. Albert Evans.
23. N. Y. Herald Tribune, Sept. 19, 1933. Page 10.

work week in plants that have been unionized, beyond the mere minima, they put down the size of the weekly pay envelope for all employees who have been during many long the new minimum wages, and workers who have been, in some cases, earlier work voluntarily over long periods, are no longer content to carry on."[21]

Albert Dykes, in his same article, mentioned earlier in the "Nation" magazine, says "Although the law's prohibition of production of the weekly wages of workers who have received higher than the minimum unscrupulous, there is a great deal of evidence of enforcing this obligation. It is not necessary for an employer to go through the machinery of an official complaint. Since nothing in the Labor Boards directives and by-laws need only inform his older or stronger-willed employees that for one reason or another he is compelled to reduce the scale. American trade-union experience shows that many employees rather to accept a reduction in their wages in order to keep so. At the worst, an employer can display on the left his non-union workers and raising them later at a very low rate, thereby adjusting the minimum act by his own."[22] Further on he says, "Employers will discover before long that most kind of claims was for merely considered cheap and inefficient workers, are really a loss with considerable talent and can be trained as good workers formerly by employees who exercised skills or some learning-man wages associated in the trades."[23]

21. Business week, Oct. 7, 1933, page 8.
22. Nation, 137:445, Sept. 27, 1933, Dykes article.
23. M. L. Lorwin Children, Sept. 14, 1933, page 10.

Senator Robert F. Wagner in a radio address of Sept. 18, 1933, in describing "The functions and purposes" of the National Labor Board of which he is chairman, said, "The wage problem is still acute. In most industries only minimum wages are fixed under the Recovery Act. There is grave doubt whether employees on higher levels are receiving proportionally greater advances. Yet such advances are essential to the purposes of the act. To make minimum wages the maximum would be sure to lead to ruin. In addition, all wage scales must be readjusted constantly, for tragic consequences to all are inevitable if production and prices are permitted to rise faster than wages. Here lies the most important task for the immediate future."[24]

The problems of the minimum wage are not the only ones to be met. One of the greatest problems is the enforcement of these provisions and the prevention of evasions. The business man hungry for profits soon finds ways of avoiding the payment of wages prescribed by law. The "kick-back" is one of the means used in evading minimum wage payments.

Two reports on the "kick-back" reveal some very startling information. We read in the December 31, 1933 issue of the Herald Tribune such reports as these, "Revelations on the "kick-back", whereby workmen are victimized by being forced to return part of their wages each to foremen, superintendents and building contractors in return for the privilege of working at all."[25] Senator Royal S. Copeland at the hearings of the U. S. Senate Subcommittee on Racketeering held on Dec. 21, 1933 was much stirred when he heard "the kick-back racket was prevalent not only in private building projects, but in enterprises paid for by

24. N. Y. Herald Tribune, Sept. 19, 1933. Page 10.
25. N. Y. Herald Tribune, Dec. 22, 1933. Page 36.

the Federal, State, and Municipal Governments."[26]

George J. Atwell, President of the George J. Atwell Foundation Corp. told Senator Copeland that "If the contractor on the job pays the standard wage to his workers I should say at least 25 per cent of it--of this Federal money--is kicked back into dishonest hands."[27]

Adolph Dzik, counsel for the anti-racketeering committee of the A. F. of L. Building Trades Union of New York "Declared that the practice was common throughout the country."[28] Mr. Atwell later remarked that "You could fill Madison Square Gardens ten times with New York workers who kicked back."[29]

In the December 30, 1933 issue of the same paper we read, "Most vicious among the practices exposed by the inquiry, Mr. McGohey (Assistant Attorney General in charge of the racket burear) said, was the mandatory kick-back system, under which employees are required to return between 30 and 60 per cent of their wages each week for the privilege of keeping their jobs. To enforce this rule, he said, workers are threatened with dismissal and are told that such contribution preserves the wage scale.

"Each week the men received cash wages at the regular union rate and, regularly as clockwork, on the Monday or Tuesday after pay day a representative of the employer, and some cases the employer himself, would come around and demand repayment of a percentage of the wages. One helper, Mr. McGohey said, paid back $2.50 a day all this year and a journeyman plasterer repaid $9.50 of his $13.50 daily wage."[30]

26. Ibid. Page 36.
27. Ibid. Page 36.
28. Ibid. Page 36.
29. Ibid. Page 36.
30. N. Y. Herald Tribune, Dec. 30, 1933. Page 7.

the Federal, State, and municipal governments."[26]

George J. Atwell, president of the George J. Atwell Foundation Corp., told Congress Republican that "If the contractor on the job pays the standard wage to his workers I should say at least 25 per cent of it--or this Federal money--is kicked back into dishonest pocks."[27]

Adolph Berle, counsel for the anti-racketeering committee of the A. F. of L. Building Trades Union of New York, "maintained that the practice was common throughout the country."[28] Atwell later testified that "You could [illegible] square Gorman ten times with New York workers who kicked back."[29]

In the December 20, 1934 issue of the same paper we read, "Most victims among the prestigious exposed by the inquiry, Mr. McCooey (Assistant Attorney General in charge of the racket bureau) said, was the quadruple kick-back system, under which employees are required to return between 25 and 50 per cent of their wages back to the privilege of keeping their jobs. To enforce this rule, no slip, workers are threatened with dismissal and are told that such contribution preserves the wage scale.

"Each week the man received cash wages at the regular union rate and, regularly, on pice work, on the Monday or Tuesday after pay day a representative of the employer, and some cases the employer himself, would come around and demand payment of a percentage of the wages. One worker, Mr. Hopper said, paid back $2.50 a day all told year and a journeyman plasterer repaid $3.50 of his $15.50 daily wage."[30]

26. Ibid. Page 26.
27. Ibid. Page 26.
28. Ibid. Page 26.
29. Ibid. Page 26.
30. N. Y. Herald Tribune, Dec. 20, 1934. Page 2.

But the building trade isn't the only one which employs the "kick-back." It is known to exist in many factories and different types of industries. In my own city, Norwalk, Conn., I have been told by workers that checks which are made out for the full minimum wages, had to be cashed in the company office. Instead of receiving the full amount of the check, a certain percentage was deducted as a "kick-back". Some of those who reported such violations usually received the correct amount, others were let go. Because of the fear of losing their positions, many violations are never reported, so that we never get the full report on the "kick-back" racket.

B. The Injunction in Restraining Labor under Section 7(a).

A great drawback to the free actions of labor union activities has been the use of the injunction. In spite of the existance of a law such as the Norris-La Guardia (Anti-Injunction) Act, and the recognized rights to strike and picket and the rights granted labor under Section 7(a) of the N.R.A., some of the courts, which are prejudiced against labor, still insist on issuing injunction.

In the case of H. B. Rosenthal-Ettlinger Co., Plaintiff, v. Joseph Schlossberg, as treasurer of the Amalgamated Clothing Workers of America. (Supreme Court of New York, Dutchess County, Oct. 12, 1933) 149 Mise. 210,206. N. Y., Supplement 162, "Picketing by defendant labor union, engaged in carrying on (a) strike against (the) plaintiff, member of industry governed by a code of fair competition, by signs charging plaintiff with non-compliance with N.R.A., etc., held improper in advance of and determination of such alleged non-compliance by proper authority. Injunction granted."[31]

31. A Handbook of the N.R.A., By Mayers 2nd Edition. Federal Codes, Inc., N. Y. 1934. Page 161.

In a report of the above case, in "The United States News" we read the following paragraphs:

"The court decided that the union could not justify the claim that the company had violated the labor provisions of N.R.A. unless the N.R.A. itself determined that it had violated those provisions. It held further that the union had no right to use signs proclaiming that President Roosevelt had given the union the right to organize employees.

"This court ruled in addition that a decision of the New York Court of Appeals which upheld the right of an employer to hire and to fire men for any reason has not been changed by the National Industrial Recovery Act. An employer, according to this decision, could by proper persuasion induce employees to resign from their unions, using lawful means for that purpose and avoiding threats, false statements, violence, or intimidation."[32]

Vice Chancellor Berry of New Jersey seems to be prejudiced against any kind of picketing. "He granted a week's extension of an injunction preventing the Retail Clerks' International Protective Association from picketing the shoe stores of Elkind & Son, Inc.,----and the Miles Shoe Stores, Inc.,"[33] He "Denounced picketing as a device of labor---and said that he would do all in his power to stop it."[34]

When he was told by the attorney for the shoe stores that "The purpose of the order was to discover if the clerks could picket the stores", he said, "Well, they can't. It's the most audacious thing I ever heard of. It's happening all over the

32. The United States News, Oct. 21, 1933 to Oct. 28, 1933 Page 5.
33. N. Y. Herald Tribune, Nov. 15, 1933. Page 11.
34. Ibid. Page 11.

country and it's time that somebody puts a stop to it. Organizers are trying to stir things up. Instead of helping reemployment, they are putting more people out of work all the time. I'm going to do all I can to stamp it out. No employer can be compelled to hire union labor."[35.]

The right to picket peaceably has been maintained, but the restrictions are very great. "In American Steel Foundries v. Tri City Central Trades Council (257 U. S., 184), also decided in 1921, the Supreme Court, in an opinion delivered by Chief Justice Taft, defined 'peaceful' picketing as the presence of not more than one picket at each entrance and exit of a plant or place of business. This, of course, completely destroys any possibility of effective picketing."[36.]

The injunction issued in connection with the Soft Coal Code in Kentucky Case was issued "On the ground that the N.R.A. Bituminous Coal Code is unconsitutional as applied to local business. Federal District Judge Charles I. Dawson, today temporarily restrained the government from forcing the code upon unwilling operators in Western Kentucky."[37.] Judge Dawson said in connection with the case, "I don't believe that Congress dreamed that this act would be misread and distorted to mean that Congress had the power to control all activities.

"The process of digging the coal, bringing it from th mines into the daylight, has of itself no more relation to interstate commerce than has growing a bushel of wheat on a farm."[38.]

35. Ibid. Page 11.
36. Business Organization and Control, Tippetts & Livermore
37. N. Y. Herald Tribune, May 3, 1934. Page 8.
38. Ibid. Page 8.

But the question of whether a company comes under the jurisdiction of the interstate commerce act is not so much the source of the product as it is where the product is sold. If the above coal operators could be found to market their product in any other state, why shouldn't the N.R.A. have the power to force the codes on them?

There have been many other injunctions issued against labor unions to hamper their activities. Of the large number, the following have been picked as examples:

"An injunction, restraining members of Local 138 of the International Brotherhood of Teamsters from picketing in front of six branches of the Michaels Brothers' Retail Furniture Stores---with signs referring to the N.R.A., was handed down yesterday by Justice John H. McCooey, Jr., in Supreme Court, Jamaica Queens."[39]

"Four New Jersey employing Dyers' Associations obtained a temporary injunction today from Vice Chancellor Charles M. Egan in Jersey City restraining the Federation of Silk and Rayon Dyers and Finishers of America, with a membership of about 25,00 workers in this state, from calling a strike in violation of a contract with employers which does not expire until October 24.

"The restraint is one of the most drastic orders ever handed down by a New Jersey Court in a labor controversy and enjoins union officials and representatives not only from picketing, and causing a strike, but from discussing a strike,

39. N. Y. Herald Tribune, Nov. 2, 1933. Page 6.

picketing, violence or any form of interference with the execution of the existing contract.[40]

"A temporary injunction restraining General Hugh S. Johnson, recovery code authorities and United States officials from enforcing provisions of the Coat and Suit Industry Code in the cases of five Connecticut Manufacturers has been granted by Judge Edwin S. Thomas in U. S. District Court.----.

"Judge Thomas issued the temporary restraining order on the basis of prima facie evidence contained in affidavits submitted by the complaining companies, which contended that great personal hardships had resulted from alleged discrimination by the code authority against Connecticut manufacturers, particularly in regard to minimum wages paid to employees."[41]

"This injunction restrains N.R.A. and Federal Officials from enforcing the terms of an amendment to the Bituminous Coal Code which reduced hours to thirty-five a week and raised the basis minimum wage from $3.40 a day to $4.60."[42]

"The Appellate Division of the Supreme Court, Brooklyn, refused yesterday to grant a temporary stay against the drastic injunction issued last Monday by Justice Leander B. Faber--- restraining the Bakery and Confectionary Workers' International Union, Local 505 from carrying on a strike against the Standard Baking Co----.

"Thirty-eight provisions of the injunction specifically

40. N. Y. Herald Tribune, Sept. 14, 1934. Page 3.
41. N. Y. Herald Tribune, Jan. 3, 1934. Page 10.
42. N. Y. Herald Tribune, April, 10, 1934. Page 2.

forbade the union from picketing the plant, holding meetings near it, carrying placards referring in any way to the strike or interfering with the company's business. In addition, Justice Faber enjoined the union from informing any one or discussing with any one the nature of the injunction."

Matthew M. Levy, attorney for the union called the injunction "The most drastic I have ever seen and an infringement on the right of free speech." He also said, "The union has always striven to better the conditions of the workers. This order is a step into the dark past. It is scarcely believable that any court in the land could issue an order so unwarrantedly devastating in its scope. The workers cannot, by the injunction's terms even discuss the fact that it has been issued against it."[43]

"The Acme Finishing Company of Pawtucket, R. I., one of the largest plants of its kind in the world, obtained an injunction late today restraining labor leaders from picketing its plant or molesting any of its 2,500 employees. It was the first resort to injunctions by any plant in this area since the declaration of the strike."[44]

C. Use of Publicity in Fighting the Unions.

Publicity is and has been a great influence in swaying public opinion either for or against a certain cause. Never has publicity, from many capitalistic sources, been used so effectively and in such steady doses as it has been since the

43. N. Y. Herald Tribune. June 5, 1934 Page 7.
44. N. Y. Herald Tribune, Sept. 7, 1934. Page 7.

inception of the N.I.R.A. and Section 7(a) of that act. The sole purpose of this steady barrage has been to fight and cripple the outside unions, especially the American Federation of Labor.

Professor Dale Yoder in his book "Labor Economics and Labor Problems," says that the use of publicity is one of the best weapons wielded by Employers' Associations in moulding public opinion and helping destroy the unions. He says that they,(a) originate and maintain extensive propaganda and publicity campaigns against union labor, 1st; by publicizing labor racketeering; 2nd, by maintaining that labor organizations are a threat to democratic government; and 3rd, they try to show a relation of the labor movement to the Russian Reds and Bolshevism. Another method of weakening the unions is to encourage members to make subtle attacks upon leadership of labor organizations by bribing or hiring away the able of those in charge of labor.[45]

This use of publicity must be quite common among the manufacturers, and must go by a certain pattern. This seems true because the arguments and attacks used against organized labor, since the N.I.R.A. came into being, have been exactly like those stated above. The primary purpose of those attacks must be to create a sense of fear and insecurity in the minds of the public against any kind of organized labor.

Since the newspapers are such an influence in shaping public opinion, there is a great power in the hands of the press of the country. Labor has always realized that to the extent that "The Connecticut Federation of Labor at its forty-ninth annual convention here (held Sept. 5, 1934), will vote

45. Based on "Labor Economics & Labor Problems, By Dale Yoder, Mc Graw Hill Book Co., Inc., N. Y., 1933. Page 539.

tomorrow on a resolution advocating a boycott of advertisers in 'unfriendly newspapers as a means of forcing the publishers to print unbiased reports of the present textile strike.'"[46]

"-------delegates from striking unions were applauded warmly when they charged that leading Connecticut newspapers and press services were not giving a true picture of the strike."[47]

We may be sure that the same could be said of other states of the union if one were to get a complete report of the facts. The New York Herald Tribune through its editorials, and through one of its feature writers, Mark Sullivan, to give one example, has issued a steady number of statements that cannot help but affect most people's attitude toward unions and organized labor.

There are many so called Employers' Associations in the United States. Since June, 1933 these organizations have aided, individually and in unison, in publicizing the "grave" influences of organized labor on our every day society. In an article entitled "Crisis Nearing for Roosevelt on Labor Issue," the New York Herald Tribune expressed itself as follows: "Industrialists in growing proportions have been asserting that the National Labor Board and the N.R.A. to a lesser extent have been going out of their way to aid the American Federation of Labor in its unionization efforts. They have charged that labor troubles have been stirred by these activities and by the administration's general policy on labor. They have painted a

46. N. Y. Herald Tribune, Sept. 6, 1934. Page 3.
47. Ibid. Page 3.

picture of dictation of business."[48]

The U. S. Chamber of Commerce which represents American business, has done a great deal in maintaining and further developing industry's opposition to organized labor's leadership, in demanding incorporation of the union, and in pointing out the irresponisibility of the union by over-emphasizing the weapons of attack they use.

One of the union's bitterest opponents is, and has been, the National Manufacturers' Association. Their spokesman, James A. Emery, a very able and astute lawyer, in attacking the Wagner Bill said that it "Means a nation unionized by the coercion of government," and the "Closing of the doors of opportunity to all but union members." He also asserts that the bill "Secures for him (the union laborer) a monopoly of opportunities for organization," "and assured it (the union) the unrestricted use of the strike to interrupt production and distribution at will, and assess the public with the cost of a labor monopoly, established and maintained by Federal aid."[49]

Of course any assertions such as the above puts fear into industry and the gullible masses, and creates unfavorable attitudes toward unionism. Those statements used by Manufacturers' Association against the Wagner Bill, have been used over and over again, only expressed in different words. The attacks of the Cotton Textile Workers' Union are developed in Chapter VII.

48. N. Y. Herald Tribune, March 19, 1934. Page 2.
49. N. Y. Herald Tribune, March 26, 1934.

Another great influence to pitch itself into the fight against organized labor has been the Steel Institute. It joined in a nation-wide attack on the Wagner Bill and used the same arguments as the Manufacturers' Association, "Declaring the Wagner Bill, if enacted would turn the control of American industry over to a National Labor Monopoly notwithstanding their claim that National Labor Unions, by appeal for voluntary membership have succeeded in enrolling less than 10 per cent of the workers of the country.

"The Wagner Bill would establish a National Labor Board which, according to the steel men, would have more power than any governmental agency or court ever has had. Under its provisions, it would be an offense subject to fine and imprisonment, for any employer to participate in any organization of employees. In addition, employers would not be permitted to express their opinion as to whether the organization with which he is required to deal is truly representative. The employer would be denied by law the right to use Federal Court injunctions to protect his property, while no such restrictions would be placed upon labor unions, steel executives assert."[50]

The above charges are against a bill which, if passed, will help organized labor, but they are indirectly against unions themselves, and are representative of the attacks against organized labor in general.

It is rather amusing when one realizes that the same organizations which are fighting unions because of their

50. N. Y. Herald Tribune, March 19, 1934. Page 2.

"monopoly plots", are the same ones which the government has been fighting for years, for the same charges, through the Federal Trade Commission.

Garet Garrett, writer for the Saturday Evening Post, and a real individualist, also has no sympathy for organized labor. In an article called "Section Seven--A at Sheboygan", appearing in the October 27, 1934 issue of the Saturday Evening Post, he tells of all the injustices and persecutions that Mr. Walter J. Kohler and the Kohler Plant experienced through organized labor and the National Labor Board. In telling of the strike at the Kohler Plant he strays far afield quite often, just to show how heartless is organized labor, the Administration, and the Labor Board in trying to bring about an agreement between the company and the employees, and of course, how generous the company has been to the organized workers.

The article, itself is a wonderful piece of propaganda, and an important device in creating public opinion against unionism. It makes Walter J. Kohler, the owner of Kohler & Co., a martyr of some great intrigue between the National Government and the American Federation of Labor. Of course such a publication as the Saturday Evening Post that goes into millions of homes and is read by millions more, does have some influence on people's thoughts and ideas.

Probably the most insistent fighter of union activities has been the Automobile Chamber of Commerce. Its attitude has always been hostile to organized labor, but has been intensified from the very signing of the Automobile Code.

"monopoly plots", who's gang has dominated the entire country's been fighting for years, for the same company, through the Federal Trade Commission.

Peter Garvett, writer for the Saturday Evening Post, and a real individualist, also has no sympathy for unionized labor. In an article called "Goodbye Gerard-A Farewell", concerning in the October 29, 1949 issue of the Saturday Evening Post, he tells of all the injustices and troubles that Walter P. Reuther and the Reuther Brothers overcome in organizing labor and the Ford Motor Co. In fighting of the strike at the Reuther Plant, he stirs far article quite often, that to show how beautiful a capitalist owner, the administration, and the labor board is trying to bring about an agreement between the company and the employees, and of course, how the evil company has been by the disgruntled workers.

The article, itself is a wonderful piece of propaganda, and an important service in great on Ford's behalf against unionism. It makes Walter P. Reuther, the owner of Ford Co., a martyr of some great battle between the national Government and the Communist Federation of Labor. Of course such a publicity is an big advertising plan, that costs hundreds millions of dollars and is read by millions people. Those have more influence on popular thought than Jesus.

Today's most important fighting of union activities has been the unemployed member of congress. His attitude has always been that he is protecting labor, but has been intimidated from the very slaughtering of the Reuther Gang.

During the March, 1934 controversy between this organization and labor, they launched one of their greatest publicity campaigns. First, it asserted that "The American Federation of Labor seeks to make a union card, not merit, the sole condition of employment. They seek to control who shall be employed and what the output shall be."[51.]

Second, John L. Lovett, Chairman of the Michigan Manufacturers' Association and spokesman for the National Automobile Chamber of Commerce in an address "Charged that the American Federation of Labor was using the Automobile Strike threat and the Wagner Bill barring company unions in an effort to force workers to join A. F. of L. Unions."[52.]

Third, "An advertisement (covering a full page in the March 20, 1934 issue of the N. Y. Herald Tribune, Page 16, and other papers throughout the country) was published by the Chamber-----assailing the A. F. of L. and appealing to employees to stand firmly by the company representative plans of collective bargaining which have been in practice in the industry."[53.] This advertisement addressed to employees of the automobile industry accuses the A. F. of L. and other unions of

1. "Trying to force you (the employees) to join their unions and pay dues to support professional labor leaders.
2. "Trying to destroy the present satisfactory arrangement between you (the employees) and the management.

51. N. Y. Herald Tribune, March 19, 1934. Page 2.
52. Ibid. Page 2.
53. N. Y. Herald Tribune, March 20, 1934. Page 1.

During the March, 1934 controversy between Ford's management and labor, their leaders made two important, unfortunate mistakes. First, it asserted that "the American Federation of Labor seeks to make a union card, not security, the sole condition of employment. They seek to control who shall be employed and what the outcome shall be."[81]

Second, "in a speech, Director of the Ford as 'manufacturers' Association and spokesman for the National Automobile Chamber of Commerce in an address [illegible] that the American Federation of Labor was using the Ford strike [illegible] threat and the [illegible] will certain [illegible] unions in an effort to force workers to join [illegible] of L. unions."[82]

Third, "An advertisement [illegible] a full page in the March 20, 1934 issue of the [illegible] Herald, Page 16, and other papers throughout the country was [illegible] the October----[illegible] the [illegible] of L. and [illegible] employees to stand firmly by the company in resenting the [illegible] of collective bargaining which have been in practice in the industry."[83] This advertisement appeared to [illegible] the automobile industry [illegible] of L. [illegible] union of

1. "Trying to force you [illegible] to join trade unions and pay dues to [illegible] leaders.

2. "Trying to destroy the [illegible] history in management between you [illegible] and employers [illegible].

81. N. Y. Herald Tribune, March 19, 1934, Page 2.
82. Ibid., Page 2.
83. N. Y. Herald Tribune, March 20, 1934, Page 9.

3. "Trying by force, by coercion, by intimidation of you and your families and threat of strike to make you join their union.-----They want dues----paying members."

And ends up thusly, "Unasked and unwanted, the American Federation of Labor is now trying to get control of this industry and destroy what we have taken years to build.

"This industry does not intend to yield to such un-American and unpatriotic procedure."[54.]

Such statements cannot help but create an unfavorable attitude toward organized labor, even among workers themselves whether they be members of a union or not.

In an interview with William Green, S. J. Woolf quotes him as saying, referring to the textile strike and the unfavorable publicity given it, "All the papers stress the strike. Not much is said of the fact that, as recovery begins, employers are showing less willingness to cooperate in the President's program."[55.]

We also have unfavorable publicity, not against union labor, but against the New Deal. "Dissatisfaction with the New Deal is becoming a general phenomenon throughout all classes. Among the capitalist class, including the highest strata, this dissatisfaction is expressed through, for example the recently formed Liberty League, a coalition of leading Tory politicians of both old parties; it is shown in the

54. N. Y. Herald Tribune, March 20, 1934. Page 16.
55. Literary Digest, 117:9 & 31, June 23, 1934.

attitude of Hearst and his chain of newspapers, which are leading the attack against the New Deal, altho a few months ago Hearst was a declared supporter of Roosevelt."[56.]

D. The Company Union as a Means of Defeating the Labor Union.

When the N.I.R.A. and Section 7(a) came into being, labor doubled its efforts to get as many as it could to join its ranks and thereby strengthen its cause. "To forestall such an effort, the labor witnesses testified, the manufacturers began to set up company unions as soon as the Automobile Code was signed and approved."[57.]

What was said of the automobile manufacturers was true of all other companies. The N. Y. Herald Tribune in an article entitled "Crisis Nearing for Roosevelt on Labor Issue" says, "Labor leaders-----contend that employers----have started a concerted campaign for company unions controlled by the employers."[58.]

Mark Sullivan in his article of March 21, 1934 in the Herald Tribune said, "Employers began to form 'company unions' meaning unions made up wholly of employees of one concern and having no connection with the nation-wide labor movement." And in a later paragraph, "The situation became a race between two groups of individuals acting for self-interest, employers working to organize company unions and A. F. of L. officials and organizers working to organize 'locals' which would increase their influence and income. In both cases it is a matter of individuals using each his own art to work upon the psychology

56. The Communist, Oct., 1934. "The Struggle for the United Front" By Earl Browder, Page 932.
57. Survey Graphic, 23:216, May, 1934.
58. N. Y. Herald Tribune, March 19, 1934. Page 2.

of workers."[59]

In other words, this sudden activity of the employers to form company unions was a reaction of the employers toward unionism.

This is best expressed by Prof. Lorwin of the Brookings Institute, in writing for the New York Sunday Times. He says, the "Employee-representation plans, 'company unions,' were set up, not so much by employers acting singly as by entire industries acting in concert. In this movement the automobile and iron and steel industries were to the fore. In establishing employe-representation plans the employers believed that they are setting up devices which not only satisfied the requirements of the Recovery Act on collective bargaining but which also precluded any necessity that the workers join trade unions in order to enjoy the benefits of Section 7(a). It seems beyond doubt that most employers who set up company unions have done so to guard against the possibility of trade union penetration into their establishments."[60]

James H. Rand, Jr., chairman of the board of the Remington Rand Company, said, in defending his company union, "In American industry as a whole probably more manufacturing workers are employed in employee representation or so called company union plans, than under the closed shop contracts advocated by the American Federation of Labor, under which employees who do not voluntarily choose to belong to a labor union are denied

59. N. Y. Herald Tribune, March 21, 1934. Page 2.
60. The New York Times, Nov. 4, 1933. Page 9.

employment."[61]

There are many reasons for the growth of the company union idea. But the greatest reason is that labor unions have forced the companies to make great concessions to labor groups in order to keep them affiliated to employee representation groups rather than ally themselves to outside unions.

At the time of the signing of the Steel Code we read that "The fear that recognition of the right to organize and to bargain collectively would throw the whole industry open for unionization by national unions was admitted to be a high barrier.

"At first reading of the codes, observers here were of the opinion that the industry had succeeded in erecting a fairly strong protective wall around the company unions which have been organized recently to meet the requirements of the National Recovery Act for collective bargaining. The plan details a company union plant through-out the industry and binds members of the industry to preserve the operations of this system from interference, restraint or coercion."[62]

Elsewhere we read that "For many years the members of the industry have been and now are prepared to deal directly with the employees of such members collectively on all matters relating to their employment.-----It is the belief of the industry that the method of collective bargaining set forth in such plans provides for a day-to-day adjustment of all matters relating to the employment of employees in the industry and at

61. N. Y. Herald Tribune, Sept. 31, 1933. Page 9.
62. N. Y. Herald Tribune, July, 16, 1933. Page 2.

the same time insures to such employees a knowledge and understanding of the conditions of the businss of the employer which they otherwise would be unable to obtain;----"[63]

Another reason for the increase in company unions is, as Edward A. Filene put it in warning labor against the motor strike, "But General Motors, in common with much of 'big business' is afraid that the American Federation of Labor is not so organized as to control its members within the bounds of justice and safety to business. Therefore it thinks itself justified in planning to substitute company-guided or company-controlled unions in place of A. F. of L. Unions."[64]

Other reasons are that the company unions require no union fees. They sometimes guarantee full time employment to labor if it becomes a member of a company union. Then also, "Company unions are frequently accompanied by profit-sharing schemes, welfare projects, and pension systems."[65]

These employee representation organizations help destroy unions by lessening the numbers willing to join an outside union to get a foothold in the industry so as to build up its membership.

Many companies made terms and conditions so favorable to labor that, in spite of the company domination, the employees would rather sacrifice freedom than to lose financial security.

From the very beginning when industry realized that labor was to be given the right to organize, it has been deaf to any

63. Ibid. Page 2.
64. N. Y. Herald Tribune, March 19, 1934. Page 2.
65. Economic Problems of Modern Life, Patterson & Scholz, McGraw Hill Book Co., Inc., N. Y. 1931. Page 629.

demands of organized labor.

As Prof. Lewis L. Lorwin, member of the Institute of Economics, Brookings Institute puts it, "Anti-union employees stiffened their resistance against the demands of an organized labor movement now grown more agressive and militant than at any time since 1919-20.

"On the side of employers there is a rallying to the traditions of the past; a determination not to permit the imposition of trade unions upon industries until now free from them; a concerted move to maintain the status quo in industrial relations notwithstanding the N.R.A. and codes of fair practice." 66.

The Steel leaders have never been very partial toward organized labor. They have been powerful enough to resist any organization among their labor ranks. When it came to a question of having any organization in their plants they immediately instituted company unions. In a telegram to Senators and Representatives, of the four states where many mills are situated, informing them of their attitude toward the Wagner and Connery Bills, they make statements defending the company union. The telegram reads in part: "The extent to which workers are showing preference for organizations within their own plants and under their own direction is indicated by reports made to National Industrial Conference Board by 3,314 companies having 2,585,740 employees, which reveal that above 45 per cent of these employees choose to deal with their employers through employee representation plans, or company unions, while only

66. N. Y. Times, Nov. 4, 1934, Section 8. Page 3.

a fraction over 9 per cent elect to bargain through national labor unions and the remainder to bargain individually."[67]

The automobile employers in an advertisement "To Employees of the Automobile Industry" say to defend the company union, "These employee representation plans--which the labor leaders call company unions--have been set up by more than 80 per cent of the employees themselves. They are working satisfactorily. Any one of you can see his supervisory officer at any reasonable time and settle any question that may arise. Most of the questions that have come up have been peacefully settled."[68]

On Oct. 15, 1934, Alfred P. Sloan, Jr., for General Motors Corporation, offered its 130,000 employees a plan for collective bargaining. In the letter given each employee was the statement, "We in General Motors recognize 'collective bargaining' as a constructive step forward, both for the employees and the management.---- Regardless of any obligation that may exist, we propose not only to continue the idea, but to develop it."

Later it gave the procedure to be:

"1. Informal Conference", and to cover "routine matters which may be settled 'on the spot' by the foreman or supervisory executive."

"2. Formal Conference", and to cover "written notice requesting a parley on the question which should be called within five days, with the head resident executive in attendance."

67. N. Y. Herald Tribune, March 20, 1934. Page 2.
68. Ibid. Page 16.

"3. Appeal" where "either side may ask action of the department of industrial relations in Detroit."[69]

Lamont du Pont, President E. I.duPont De Nemours & Co., in a "Stock holders bulletin" defended the employees plan which "has been adopted and put into affect at sixty four of the plants of the company and its subsidiaries and in each case by a voluntary favorable vote of more than two-thirds of all the employees in that plant." The statement also says, "This plan does not provide for a labor union, nor a company union, nor is it an 'organization' of any sort.

"'It is simply a plan offered to the employees whereby they may elect representatives and whereby those representatives may confer with an equal number of representatives of the plant management, and discuss employee-employer relations and make such requests upon the management as the representatives see fit.'

"'No membership is required of the employee, no dues are required and no expense to the employee is involved.'

"'It is the belief of the management that the company's employees may organize under the American Federation of Labor, if they see fit; or they may cooperate through an employees' representative plan, if they see fit; or each employee may bargain individually with the company.'"[70]

Call the above organization what you will, it still is a company union. An inside union cannot exist unto itself

69. N. Y. Herald Tribune, Oct. 16, 1934. Page 8.
70. N. Y. Herald Tribune, Oct. 4, 1933. Page 29.

without some support of one type or another. It must have had some backing and connection with the company to be so generally accepted in their plants within a relatively short period of time.

The prize for "company unions" goes to a Bridgeport, Connecticut, Company. In an editorial of the Bridgeport Times-Star, entitled "Union Leadership", we read the following:

"In one of the few moves visible to the public eye in the constant undercover struggle between employer and labor organizer, the owners of the Stylecraft Leather Goods Co., offered a wage and hour agreement so attractive that its employees speedily discarded their American Federation of Labor affiliation and formed a company union.

"True it is that in the agreement, the firm's employees signed what the unions have long abhorred as a 'yellow dog' contract by agreeing not to strike for two years and have definitely cut themselves off from labor associations outside the plant for the same period.

"Both the members of the newly formed company union, on their side, point to a guarantee of fifty weeks work in each of the two years covered by the agreement and a ten per cent wage increase which becomes effective November 15.

"Furthermore, they discard their union affiliation in a spirit of resentment over what they term 'outside interference' by 'trouble makers.'"[71]

E. Widespread Chiselling is Already Noticeable.

A new word has come into our vocabulary within the past

71. The Bridgeport Times-Star. Sept. 28, 1934. Page 8.

few years. It has found a very prominent place in our vocabulary since the N.I.R.A. became law, and since General Johnson became Administrator of the N.R.A. That word is "chiselling" and denotes getting something for nothing, usually in some underhanded method. Another meaning for it is "cheating." Under the Codes, that practice is quite common. Signing a code was necessary in order to get a "Blue Eagle", but once an "Eagle" was obtained then cheat for all you're worth. Take advantage of respectable and honest competitors if possible. All is fair in war and business.

One of the first reports on chiselling was given by Henry F. Wolff, Chairman of the newly appointed committee on mediation. On September 21, 1933, he said, "These disputes (speaking of strikes), were running concurrently with the daily average of of more than 200 complaints of alleged 'chiselling' under the President's Reemployment Agreement, or the industrial codes, and recently more than 500 such complaints were received in a single day. The total of complaints now on file at city N.R.A. head-quarters is nearly 8,000.------"[72.]

In another report, more than a year after the above, we find very little change. In a survey made by the A. F. of L., consisting "Of reports from seventy-one organizers in twenty-nine states, forty-three found increasing or widespread violations of codes in their areas. Only seven reported violations on the wane."[73.] Because of the above facts we learn that "General Hugh S. Johnson, National Recovery Administrator, once

72. N. Y. Herald Tribune, Sept. 22, 1933. Page 4.
73. N. Y. Herald Tribune, Nov. 9, 1934. Page 6.

more today declared that he was much concerned over the question of non-compliance with codes.---"[74.]

As for the types of chiselling, we have many kinds of which these are a few. One of the first mentioned is the "stretch-out", of which William Green said in an article entitled "Labor and the New Deal", "Employers resorted to the 'stretch-out' system--that is, managers increased the number of machines tended by each worker."[75.]

In a letter to Chairman Garrison of the National Labor Relations Board, Mr. Gorman, speaking for the United Textile Workers, said, "Section 15 of the Cotton Textile Code provided that there should be no further extension of existing work loads without approval of the code authority.

"In direct violation of the Code provision, employers, particularly in the South, have intensified the stretch-out as a means of off-setting the reduction of hours of work from fifty-five and sixty to forty, under the Code.

"However, it is imperative that some positive measure be taken toward remedying this inhuman device for forcing ten or twelve hours' productive labor out of a worker in eight hours."[76.]

Another type of "chiselling" is called "transfer of control" of a business so as to evade a code. Mrs. Elinore M. Herrick, vice-chairman, and now chairman, of the Regional Labor Board of New York said of this, "More and more firms have been

74. N. Y. Herald Tribune, Nov. 18, 1933. Page 5.
75. N. Y. Herald Tribune, Sept. 3, 1933. Page 2. Magazine.
76. N. Y. Herald Tribune, Aug. 29, 1934. Page 9.

attempting to evade their responsibility to labor under Section 7(a) of the National Recovery Act by resorting to transfer of their business under other names and to other jurisdictions."[77.]

Mrs. Pinchot testifying before a committee of Congress mentioned a third type of "chiselling". She said that employees "Were found by the employers' records, to be receiving less than the prescribed minimum.

"More often, however, the records do not show this. In many cases the employees are required to 'sign off' the hours that they have worked. In other words, the records show they have worked the legal forty hours a week when they have really worked more."[78.] That type of chiselling might be called "padding" of the records.

Then there is the "kick-back" already mentioned and explained above.

One case which came up, probably has more evasions than any other. This case already mentioned is that of Ralph A. Fruendlich, Inc. and the Doll and Toy Workers' Union. They were found guilty of moving to another state to evade a contract with the union; paid its workers single time for overtime; workers in the factory work more than eight hours overtime a week; operate three shifts in its factory; destroyed the time cards of the week workers and produce cards of the piece-workers so they wouldn't be subject to investigation, etc.[79.]

In Harper's Magazine we read, "Call a man an apprentice

77. N. Y. Herald Tribune, Aug. 29, 1934. Page 9.
78. N. Y. Herald Tribune, April 8, 1934. Page 22.
79. Based on N. Y. Herald Tribune, Jan. 6, 1934. Page 6.

or a cleaner and you can still pay him any wage you see fit."[80] A "New Republic" editorial states "Cotton mill owners are discharging old employees and immediately rehiring them as beginners, who,under the code, may be paid less than the minimum for a certain number of weeks----. They are refusing to advance the wages of employees in the skilled and semi-skilled grades."[81]

The following are some statistics on chiselling:

"Nearly 2,500 complaints of violations of the President's blanket code were filed in New York in the first three weeks of August... The number of these complaints increased rapidly in the next ten days."[82] In another source we read that "The A. F. of L. states "It has received 200,000 complaints direct, charging violations of N.R.A. Codes."[83]

Mr. Gorman of the textile union informed Lloyd Garrison of the Labor Relations Board that "Between Aug. 6, 1933 and Aug. 12, 1934, 1028 complaints on the stretch-out were submitted to the Cotton Textile National Industrial Relations Board for investigation."[84]

Of course the above statistics are by no means complete, but they give an indication that the Codes are not being upheld.

Reasons for such chiselling as has been going on are:

1. Employers failure to back the N.R.A. program--not in sympathy with N.I.R.A.

80. Harper's Magazine, 169:603. Oct., 1933. Fleta C. Springer.
81. New Republic, 76:20. August, 16, 1933. Page 20.
82. New Outlook, Oct., 1933. Page 34. Rae D. Henkle.
83. Business Week. Oct. 7, 1933. Page 5.
84. N. Y. Herald Tribune, Aug. 29, 1934. Page 9.

2. Unwillingness of the administration to push enforcement.
3. Failure of industry to consider the human factor in industry.
4. American industry is too large to police effectively.
5. Americans insisting on the letter of the law rather than the spirit of the law.
6. Inability of the Federal Government to enforce a Federal law within a state's boundary unless the industry is involved in interstate commerce.
7. Differences of state laws allowing industry to migrate so as to evade compliance with a law.
8. Apathy of the buyer.
9. Fear of workers and citizens to report violations.
10. Lack of public spirit of industry and of the individual.
11. Profits are more important than human rights.
12. Failure of labor to solidify its ranks into one union.

F. Section 7A Intensifies the Conflict between Capital and Labor.

There is no doubt that Section 7(a) intensifies the conflict between the employer and the employee. And it is not so much the section itself, but the great chain of events put into motion by that section that has increased the strife.

Both the labor group and the employer group has become more stubborn in their drive to attain their ends--labor in trying to increase their power by adding more workers to their ranks, and industry inventing ways to counteract labor's moves.

One of the ways industry has shown its refusal to deal with labor and to give in to its demands, has been by moving the industry elsewhere. One case is that of Ralph A. Fruendlich, Inc. already mentioned under another heading, which moved to Clinton, Mass. from New York City in order to evade a contract the company had with the Doll and Toy Workers' Unions. Another case is that of Feldink Silk Company of Paterson, New Jersey, also mentioned before under another heading, which was going to move out of the city to evade a contract with the local union.

Besides evasion of contracts by moving the company, we also hear of Daniel Reeves, Inc., a company that "Had tried to intimidate his employees for unionizing by threatening to discontinue 300 stores and throw 1000 persons out of work.----"[85.]

In another case we read that "Building union gets warning of job menace--wage rise may force use of labor saving devices, arbitrators are told."[86.]

Against these evasions and threats by the employers, we find labor unions' increased activity in invading non-union fields. Professor Lorwin, of Brookings Institute says relative to this movement, "The American Federation of Labor hastened to organize into 'Federal' unions the workers in mass-production industries where trade unionism was previously unknown--namely, in the automobile, rubber, chemical, aluminum and similar industries."[87.] On Jan. 19, 1934 we read that "Labor leaders today

85. N. Y. Herald Tribune. Jan. 8, 1934. Page 1.
86. N. Y. Herald Tribune. Jan. 12, 1934. Page 19.
87. The N. Y. Times, Nov. 4, 1934. Section 8, Page 3.

announced plans for an alliance among employees of five great industries to combat the activities of employers who, they said had united in a move against the unionization of workers.

"The unions to be grouped into a working alliance were named as those of the textile, oil, steel, automobile and tobacco industries. They have an aggregate membership of almost 4,000,000,"[88.]

Both employers and employees have been accused of lack of fair trial of Section 7(a) and machinery set up to enforce it. In a radio address delivered by President Roosevelt on Sept. 30, 1934, he said, "Machinery set up by the Federal government has provided some new method of adjustment. Both employers and employees must share the blame of not using them as fully as they should. The employer who turns away from impartial agencies of peace, who denies freedom of organization to his employees, or fails to make every reasonable effort at a peaceful solution of their differences, is not fully supporting the recovery effort of his government. The workers who turn away from these same impartial agencies and decline to use their good offices to gain their ends are likewise not fully co-operating with their government."[89.]

Many companies and groups have refused to deal with organized companies. Professor Lewis L. Lorwin said of this, "To trade unionists this is the only conclusion to be drawn (employers are engaged in a conspiracy to undo Section 7(a)) from the Weirton, Bidd, Harriman, National Lock, Houde, and other cases

88. N. Y. Herald Tribune, Jan. 19, 1935. Page 2.
89. N. Y. Herald Tribune, Oct. 1, 1934. Page 2.

in which the employers flouted the decisions of National Labor Boards, refused to hold elections and to meet with union representatives of their employees."[90.]

The National Automobile Chamber of Commerce in a full page advertisement of March 20, 1934, which I have already mentioned before, flatly comes out with a refusal to deal with organized labor in the final sentence of the advertisement, "This industry does not intend to yield to such un-American and unpatriotic procedure (getting control of the auto industry and destroying it)"[91.]

Time and again the National Association of Manufacturers has openly flouted organized labor's attempts to get a foothold in the companies which are members of the organization. They have never been willing to meet with labor under any circumstances, and at the time of the Houde majority rule decision, they advised their members to "Continue to abide by the long-standing and authoritative interpretations upholding the right of minority groups to deal with their employers----.

"The facilities of our legal department are at the disposal of our members and cooperating associations for consultations and advice upon this subject at all times."[92.]

G. Rulings Retarding Union's Position under the N.I.R.A.

Courts too have aided in retarding the union's position under the N.I.R.A. In Bayonne Textile Corporation vs. American Federation of Silk Workers, etc. (New Jersey Court of Chancery.

90. N. Y. Times, Nov. 4, 1934. Section 8, Page 3.
91. N. Y. Herald Tribune, March 20, 1934. Page 16.
92. N. Y. Herald Tribune, Sept. 13, 1934. Page 11.

Oct. 26, 1933) 114 N. Y. Eq. 307,168 A. 799, "The provisions of N.I.R.A. (are) held to render unlawful (any) attempts by 'intermeddlers' to organize employees who have not attempted to procure redress of grievances through forum established by (the) N.R.A." The decision ends thusly, "Whatever the right may heretofore have been regarded to be as to strikes by employees of a particular factory engaged in industry, third parties have never had a right to coerce or instigate employees to strike---."[93]

In H. B. Rosenthal-Ettlinger Co., Plaintiff v. Joseph Scholssberg as treasurer of the Amalgamated Clothing Workers of America (Supreme Court of New York, Dutchess County, Oct. 12, 1933) 149 Mics, 210, 206 N. Y. Supplement, 162, a case already referred to in this chapter under a different heading, the decision of the court was in part:

"The motion papers do, however, disclose a case of picketing by signs which contain misstatements and misrepresentations.

"A violation of the National Industrial Recovery Act is penalized. The defendants may not convict the plaintiff of a violation of that act, without a hearing, and announce to the world that the plaintiff has been convicted. Moreover they should not assume to publish the statement that the plaintiff has violated the act.

"A temporary injunction will be granted, enjoining and restraining the defendants from picketing the premises of the plaintiff by signs which proclaim that President Roosevelt has

93. A Handbook of the N.R.A., by Mayers 2nd Edition. Federal Codes, Inc., N. Y., 1934. Page 156 and 161.

conferred on anyone the rights to organize the plaintiff, or that the plaintiff fights Roosevelt and N.R.A., or that the plaintiff is unfair to the N.R.A., or any such charges in substance."[94.]

The case of J. & Cousins Co. v. Shoe and Leather Workers' Industrial Union and others, (Supreme Court of New York, Kings County, Nov. 18, 1933) 90 N. Y. Law Journal, 1866, brings out the fact that "(Alleged violation of labor provisions (in the) President's Re-employment Agreement held not (to be) a defense to an action by employer for (an) injunctive relief against conspiracy to ruin plaintiff's business and against unlawful picketing, intimidation, defamation, etc.)" In the decision proper we read, "Assuming the allegations of the defense to be true, the alleged violations of the said Act and said blanket agreement are not a justification for the alleged conspiracy by the defendant union to ruin plaintiff's business and the accompanying unlawful acts complained of."[95.]

The best case of the year was that of the Federal Government vs. Weirton Steel Company. As far back as Oct. 13, 1933 we learn "That a proposal for settlement of the steel strike at Weirton, W. Va,----had been rejected by the company."[96.]

On Dec. 12, 1933, "E. T. Weir, Chairman of the Weirton Steel Company, defied the National Labor Board today, flatly refusing to abide by rules it had announced to guide an election of employees' representatives for collective bargaining." In

94. Ibid. Page 163.
95. Ibid. Page 164.
96. N. Y. Herald Tribune, Oct. 13, 1933. Page 2.

the letter sent by Mr. Weir to the Labor Board, he said, "We must consider any arrangements with you terminated and the lection will proceed in accordance with rules adopted by the employees' organization."[97]

On Dec. 15, "The board has asked the Attorney General to take prompt steps to obtain an order in the Federal District Court restraining the company from interfering with the plan for employees of the company to hold an election under the auspices of the board---to select representatives for collective bargaining."[98] The whole trouble started when "Some weeks ago an agreement between Mr. Weir and the board to have the board supervise the election ended a strike at the Weirton plant. Later Mr. Weir terminated this arrangement--taking the position that a company or plant union election would serve the purpose."[99]

On March 1, 1934, the Labor Board made public a resolution that "It was the unanimous decision of the board that no other course was left but to recommend action by the Department of Justice."[100] On March 20, "The government filed suit in United States district court here today asking for an injunction restraining the Weirton Steel Company from interfering with the rights of any of its employees to organize for collective bargaining.----"[101]

A group of the A. F. of L. on the same day told the President, "We wish to point out to you----that all your rulings and orders have been disregarded completely and the government has allowed six months of stalling by the Weirton Steel Company."[102]

97. N. Y. Herald Tribune, Dec. 12, 1933. Page 2.
98. N. Y. Herald Tribune, Dec. 15, 1933. Page 1
99. Ibid. Page 2.
100. N. Y. Herald Tribune, March 2, 1934. Page 2.
101. N. Y. Herald Tribune, March 21, 1934. Page 1.
102. Ibid. Page 2.

Labor's protest did no good for the case has been muddling along. The following information has been obtained from the N. Y. Herald Tribune, dates and pages are as follows:

1. Oct. 3, 1934. Page 5---"Workers from the plant of the Weirton Steel Company charged they had been discriminated against because they joined "The outside union" instead of the company union."
2. Oct. 4, 1934. Page 4 "----employees were 'afraid' to attend union meetings and had to pay dues secretly to avoid losing their jobs", and one man "Testified to the presence of 'officers or bosses of the company' near the lodge hall 'every meeting night'".
3. Oct. 11, 1934. Page 5. "----employee testified today that he was told by a plant superintendent that he would have to 'get out of town' unless he voted at a workers' election under the company union plan." Also "---that under the company union plan, workers could not bargain collectively with the management."
4. Oct. 17, 1934. Page 2. "----a former 'mill policeman' at the plant---testified that his duties in that capacity included checking up on the 'strongest agitators' among the union men. He said he was instructed to 'get any possible thing on them.'"
5. Oct. 18, 1934. Page 5. "The government---rested its case today after placing sixty-seven witnesses on the stand since hearings started more than two weeks ago.

"The steel company chairman testified that the strike, called at Weirton, W. Va., in Sept., 1933 was ordered before demands were made upon the management.

"Weir testified also that representatives of the Labor Board did not appear at the Company's mills to supervise the balloting."

6. Oct. 25, 1934. Page 4. "Government contentions---- were answered today with testimony that the plant manager made an 'honest effort' to attend a scheduled conference but was abducted.

"His abductors, he said, were employee representatives under the company plan who were 'determined' not to let him meet the Amalgamated representatives."

7. Nov. 1, 1934. Page 5. "Testimony that trade union leaders demanded a 'closed-shop' contract with the Weirton Steel Company was admitted in the government's injunction suit today.

"Weirton counsel called twenty-one witnesses today, some from the management, who denied alleged coercion of workers, and others from among employees, who testified to the efficacy of the so-called company union as a collective bargaining agent."

8. Nov. 14, 1934. Page 9. "The Weirton Steel Company today closed its defense against the government's injunction suit----.

"----counsel for the company built up their contention that the employees representation plan, now in effect, was accepted voluntarily by the workers"

9. Dec. 16, 1934. Page 15. Government filed its brief of the case in United States District Court. "Referring to the company's payment of $25 a month to each of the forty-nine employee representatives, government counsel said 'it debauches the representatives and divides their allegiance. It plays upon their cupidity and makes them conspirators in perpetuating the company union. It constitutes a gross imposition on the rank and file of the employees."

After over a year of muddling and dragging through long Federal Court proceedings, Judge John P. Nields finally handed down a decision on February 27, 1935. The Judge said in part, "'Section 7-A as applied to defendant and its business is unconstitutional and void.'

"'It is true that part of the business of that corporation is interstate commerce.----Weirton Steel Company is the sole defendant in this suit. Its business is the manufacturing of iron and steel products. Defendant is not engaged in interstate commerce save to a negligible extent. In its relation to its employees as dealt with in Section 7-A it is not engaged in interstate commerce.'

"'If defendant's manufacturing plants and manufacturing operations are to be regarded as instruments for the interstate movement of goods, it follows that practically all of the manufacturing industry of the United States would be brought within the control of the federal government.'

"'Such result has received the unqualified condemnation of the supreme court.'"[103]

Blackwell Smith, N.R.A. legal chief said "that Judge Nield's decision was 'based on an outmoded theory of constitutional law.'";[104] William Green, A. F. of L. president, said, "Labor cannot accept the decision.'";[105] Walter Lippmann, writer for the New York Herald Tribune called it "A Mighty Blow"; while General Hugh S. Johnson, speaking at a Rhode Island Bar Association dinner said, "'It is a curious blindness--now to say of products made in a great factory--perhaps capacious enough to supply half the needs of an entire country--that the process of making them is a matter of indifference to the government of the whole people or beyond the reach of the control by law, merely because it happens to occur within the confines of a single state.'"[106]

On the other hand, Mr. Ernest T. Weir, chairman of the board of the company termed the decision a "'complete vindication of our constant position'", and James A. Emery, general counsel for the American Manufacturers' Association said, "'This

103. The Boston Herald, Feb. 28, 1935. Pages 1 & 3.
104. Ibid. Page 3.
105. Ibid. Page 3.
106. N. Y. Herald Tribune, March 8, 1935. Page 10.

"If determined, manufacturing plants and national relief operations are to be repossessed and nationalized for the interstate movement of goods. It follows that practically all of the manufacturing industries of the United States would be brought within the jurisdiction of the federal government."

"Such results are neither the suggestion of some radicals of the extreme right."[104]

Sheriff Martin Lewis, legal aide, said "this" "plan is simply an attempt on an enormous scale of constitutional law."[105]

"Labor cannot accept the conclusion."[106]

Walter Reuther for the Local Union United as "a bitter blow"; while General Hugh S. Johnson, speaking at a Bronx Island Day Association dinner said, "If it's a question of how to get of absolute poverty--personal poverty--pending enough to [illegible] for [illegible] to strive on strike--that the process of [illegible] from in a matter of indifference to the government of [illegible] people or beyond the reach of the control of law, merely because it [illegible] to occur within the confines of a single state."[107]

On the other hand, Mr. Arnold E. Weir, chairman of the board of the [illegible] termed the machine a "[illegible] violation of our constant politics", and James A. Emery, general counsel for the American Industrial Association said, "[illegible]

[103]. The Boston Herald, Oct. 24, 1934. Pages 1 & 3.
[104]. Ibid. Page 3.
[105]. Ibid. Page 3.
[106]. N. Y. Herald Tribune, March 4, 1935. Page 10.

decision will promote rational employment relations.'"[107]

In spite of the favorable and unfavorable criticism, both Francis Biddle, chairman of the labor relations board, and George W. Stocking, chairman of the petroleum labor board, "said they felt the Wilmington decision would not affect their boards or decisions in any way,"[108] and Senator Robinson, Democratic leader in a statement which he issued said, "'sentiment in the Congress overwhelmingly supports the provisions of Section 7A which are designed to secure to laborers the right of collective bargaining without restraint, interference or coercion on the part of employers'."[109]

The government has probably bitten off more than it could chew, especially in regard to the settlement of labor problems, and labor, not being generally organized to bargain collectively, cannot relieve the government of much of the responsibility in enforcing Section 7(a). For these reasons Judge Nield's decision may be a blessing to the Administration because it relieves it of trying to enforce a section which has caused it to receive much trouble and criticism.

But we must look beyond the immediate relief to the government, we must see the ultimate affect on labor. Section 7A has received blow after blow, weakening it to the extent that Mr. Biddle, before the Senate Committee on Education and Labor "said there had been "'a virtual suspension of enforcement' and a complete nullification' as a result of court action."[110]

107. The Boston Herald, Feb. 28, 1935. Page 3.
108. Ibid. Page 3.
109. Ibid. Page 3.
110. N. Y. Herald Tribune, March 14, 1935. Page 1.

Labor has been flouted on all sides because of its desire to enjoy some of the benefits enjoyed by industry, but according to Senator Wagner "there had been increased concentration of wealth, and that industrial unrest had grown rapidly."[111.]

Strange that we allow class discrimination in rendering justice--allowing one group to enjoy greater privileges and allowing them to use their power to subdue the laboring group. One judge went so far as to point out that "'It should be noted however, that the commerce clause of the Constitution does not contain the word 'affect.' It is significant that it occurs in the recovery act only. The power granted to Congress by Article I Section 8, Clause 3, is limited to the regulation of commerce as such and further limited to commerce between states'."[112.]

The word "affect" is most significant and does make a great deal of difference because it is omitted from the Constitution. However, I am prone to agree with Mr. Blackwell Smith that Judge Nields decision <u>is</u> "based on an outmoded theory of constitutional law", and with Gen. Hugh Johnson that the Federal government has a right to control all phases of commerce and if that were not done "'degraded wage and working conditions' would 'spread like a greasy stain' from one state to another, pulling down prices, wages and employment as it moved."[113.]

We need more equitable interpretations of the law based on the spirit of what we are trying to accomplish as one people,

111. N. Y. Herald Tribune, March 12, 1935. Page 5.
112. N. Y. Herald Tribune, March 14, 1935. Page 7.
113. N. Y. Herald Tribune, March 8, 1935. Page 10.

and not based on the letter of the law which serves to discriminate in favor of industry and to the detriment of labor. What is labor to do but rise up in rebellion? If we wish to eliminate class warfare and the "isms" from this country, we must create a happy, healthy, and prosperous people. Decisions like those of Judge Nields in the Weirton case and of Judge Fake in the Acme case will not help to bring about the results we desire.

H. Labor Charged of a Monopoly Plot.

Labor has been charged of a monopoly plot by many companies and associations, but the organization to fire the opening gun was the National Association of Manufacturers. Through its general counsel, James A. Emery, a statement was issued in which it said, "----that the terms of the bill (Wagner Labor Board Bill) contradict the declared purposes and that the measure is as well designed as would be possible not to encourage the amicable settlement of disputes, but to encourage disputes, and not to equalize the bargaining power of the parties affected, but to confer upon one of the parties, namely, the employees, a monopolistic power,----."[114]

It was the steel institute that made a real issue out of this "monopoly" threat. In a telegram to Senators and Representatives of their districts, the Steel Institute informing them of their attitude toward the Wagner and Connery Bills, said, we urge you "----to make the most careful study of these two bills so that you may see that they constitute discrimination

114. N. Y. Herald Tribune, Jan. 11, 1934. Page 1.

class legislation and that enactment of either of these measures into law will inevitably result in establishing a national labor monopoly of union labor which will bind all industry, trade, and commerce in America into servitude to a small group of paid professional leaders-----.

Under "-----these two bills we will have not merely a government by national labor leaders but an actual labor leader dictatorship with everything which that implies of destruction to this splendid nation that stands at the head of all nations in progress and opportunity."[115]

The second broadside to organized labor coming from the Steel Institute, came thru Tom M. Girdler newly appointed president of the Institute. In his speech before the organization he said, "I believe that it is the thought of everybody in the industry who has given it any thought, and most of us have, that we are not going to recognize any Amalgamated Association or any other professional union.------ I know that the men who sit around here in New York week after week aren't going to give in on anything to the professional labor unions."[116]

And the third great defiance by the same organization came in a booklet which it issued on the "Steel industry's position in regard to the rights and practices of collective bargaining with employees, declares that the only issue at stake involves the form of collective bargaining. This question is held to arise because the American Federation of Labor and affiliated unions have usurped a dominating position under the N.R.A.

115. N. Y. Herald Tribune, March 20, 1934. Page 2.
116. N. Y. Herald Tribune, May 25, 1934. Page 27.

and claim exclusive right to represent employees of the industry."[117]

I. Shirt and Blouse Mills to Close Doors.

The National Association of Men's Shirt and Boys' Blouse Contractors, having about a hundred members who produce nearly 25 per cent of the men's shirts and 50 per cent of the children's shirts marketed, issued a statement through their executive director to shut down "for an indefinite period."

"'All the plants will remain closed until prices regain a profitable level", Mr. Steinberg, the executive director, said, "Many of the firms are on a verge of bankruptcy and in some plants levies have been made against parts of the machinery. The owners are not receiving enough for their work to pay the wages of employees.'"[118]

So because of this "The entire membership has agreed to close its factories and effort will be made, he said, to induce non-member factories to do likewise."[119]

"The threatened lockout of 25,000 workers in the-----industry scheduled for yesterday morning was adjourned temporarily in order not to embarrass President Roosevelt-----.

"The adjournment was decided upon as a result of the President's order setting Oct. 15 as the final date for report of the committee which is investigating the ability of the manufacturers to meet his decree for increased wages and shorter hours."[120]

117. N. Y. Herald Tribune, June 5, 1934. Page 33.
118. N. Y. Herald Tribune, Sept. 28, 1934. Page 35.
119. Ibid. Page 35.
120. N. Y. Herald Tribune, Oct. 2, 1934. Page 31.

The last we hear of this matter is on Jan. 18, 1935 when the 100 shirt plants formally vote to shut down in a price war. "'The majority of the shirt contractors have been operating their factories at tremendous losses," Mr. Steinberg said, "and have been unable to obtain prices for their work which would enable them to pay their workers the minimum wage, as prescribed by the terms of the Cotton Garment Code. Violations of the minimum wage provisions of the code have been enormous amongst shirt contractors, and in many instances very flagrant.'"[121]

J. Giving Back Blue Eagle to Company before Proper Adjustment Made.

One of the incidents which has come up is that of giving back a Blue Eagle to a company before proper adjustment had been made with the N.R.A. Administration as to compliance with the Code.

Back as far as January 10, 1934 the National Labor Board made a decision "In the matter of the Harriman Hosiery Mills and United Textile Workers of America". This case came up because of "A strike in the plant of the respondent company on Oct. 26, 1933 was precipitated by its refusal to reinstate certain employees who had been discharged in July, allegedly because of their union activity, and by its rejection of a proposed written agreement and its unwillingness to enter into any agreement with the representatives of its employees."

At the hearing held before the Labor Board "The company promised---to bargain collectively with the representatives chosen by its employees and to make an earnest, geniune and

121. N. Y. Herald Tribune, Jan. 8, 1935. Page 31.

conscientious effort to arrive at an agreement on the matters in controversy."[122.]

On July 21, 1934 we read of the assurance "That the National Recovery Administration was returning the Blue Eagle to the Harriman Hosiery Mills and that the plant would reopen Monday,---

"Over 600 workers who lost their jobs when the mills closed June 25, after losing its Blue Eagle for alleged violation of labor provisions of the National Recovery Act, looked forward to employment again."[123.] From Washington, D. C. comes the report that "Labor objected vigorously today to N.R.A.'s new agreement with the Harriman Hosiery Mills, restoring the Blue Eagle to the idle Tennessee plant."[124.]

The mill got its Blue Eagle and reopened on Monday, July 23, 1934, but Wm. Green, President of the A. F. of L., said, relative to return of the insignia, "'Labor regards the action taken as a betrayal of labor's interests and a complete surrender on the part of the government to a corporation which has publicly flouted the collective bargaining section of N.R.A.'"[125.]

"The N.R.A. Labor Advisory Board and Secretary of Labor Frances Perkins joined----in protesting to Recovery Administrator Hugh S. Johnson return of the Blue Eagle to the Harriman Hosiery Mills, Harriman, Tennessee.

"The message charged the company had not complied with the labor section of the National Industrial Recovery Act, with

122. Decisions of the National Labor Board, Aug., 1933--March, 1934. U. S. Govt. Printing Office, Washington, D. C. Page 68.
123. The Boston Herald, July 21, 1934. Page 4.
124. Ibid. Page 4.
125. Boston Post, July 24, 1934. Page 13.

respect to two controversial points: Restoration of 50 strikers to jobs they left during a collective bargaining dispute, and spreading of employment among local workers."[126]

As far as is known, the company retained its Blue Eagle in spite of the many protests. Here is another case where the Department of Justice failed to prosecute, because it maintained it had insufficient evidence to press charges.

126. Boston Post. July 26, 1934. Page 21.

Chapter VI

STRIKES AND SECTION 7(a)

A. The Strike in Our Competitive Society.

The strike, "A concerted withdrawal from work by a part or all of the employees of an establishment, or several establishments, to enforce a demand on the part of the employees,"[1] is very common in our economic society.

Professor Groat of the University of Vermont says of the strike, "Obstacles on every hand have been met and overcome only by insistent struggle. Consequently 'labor's cause' is inevitable and necessarily 'dear to the hearts' of all good union men."[2] Walter Lippmann in his column "Today and Tomorrow" writing on "Strikes, Unionism and the Government" said, "Strikes and threats of strikes---are---the only certain method by which the wage earner adjusts his income to recovery---. Labor is, therefore, compelled to use direct action since what it has to sell does not rise naturally in the market."[3]

Altho the strike is considered inevitable, the question might arise as to the right to cease work. William Green, writing for the "American Federationist" says, "The right of workers to strike is not questioned by the National Recovery

1. Economic Problems of Modern Life. Patterson and Scholz. McGraw Hill Book Co., N.Y., 1931. Page 614.
2. Organized Labor in America, George G. Groat. Mc Millan Co. N.Y., 1926. Page 209.
3. N.Y. Herald Tribune, March 23, 1934. Page 19.

Act., Even though we may exercise great control in the situation that now exists, the strike weapon is inherent."[4]

Professors Atkins and Lasswell in their book "Labor Attitudes and Problems" say, "Today it is generally agreed that they are in themselves perfectly legal----because any attempt to force the specific performance of a laborer's contract would be involuntary servitude, and, therefore, unconstitutional."[5]

From another source we read, "The strike as a collective cessation of work is recognized as legal, where the aim is an improvement in the condition of the employees."[6]

We recognize the inevitableness of the strike and also the right to use it, but to what extent should a government be allowed to go in promoting and protecting the organization of labor, so that they may be more effective in the use of such strike? Walter Lippmann gives us the answer when he says, "For what could be more dangerous to the liberties of wage earners than a system of codes of fair labor practices written in a government bureau and enforced in the Federal Courts.----If the government makes it its business to create unions, to foster them and guide them, it will become responsible for what they do.

"Whenever the government has created or permitted a monopoly, it has sooner or later been forced to regulate that monopoly.----If it goes further and actually creates labor monopolies it will, as surely as the tides go out and come

4. American Federationist, 4:907. Sept., 1933.
5. Labor Attitudes and Problems, Atkins & Lasswell, Prentice-Hall, Inc., N.Y., 1924. Page 356.
6. Economic Problems of Modern Life, Patterson & Scholz 2nd Ed. McGraw Hill Book Co. Inc., N.Y. 1931. Page 616.

in, be driven to compulsory arbitration and other forceful methods of preventing industrial break-downs."[7]

And two days later he writes, "But the policy of fostering unionism will not work where, on the one hand, the government has lost its power to induce the employer, and must try to command him, and, on the other hand, where there is no existing organization of labor ready to assume the responsibility and discharge it adequately. This can only produce exasperated confusion: the employers resisting the commands from Washington; the employees angered by the inability of Washington to make its demands effective."[8]

But on the other hand, it is labor who needs protection under our present economic system. The employer doesn't need much, as he is, in most cases, well able to take care of himself. The employer is best able to influence the powers that be, by the power of his wealth and prestige. One example is the inclusion of the "merit clause" in the Automobile Code over the protest of labor; and the extention of the Motor Code without eliminating any of the conflicting clauses, in spite of labor's protest. The other example is the failure of the original Wagner Labor Disputes Bill, which labor greatly needed and wanted, to be accepted by the Administration. The outcome was a compromise bill which improved past conditions somewhat, but left a great deal yet to be desired.

Professor Groat says of the employer in the case of lock-outs that he has a clear majority in his favor because he is better able to estimate his chances of success and can

7. N. Y. Herald Tribune, March 21, 1934. Page 19.
8. N. Y. Herald Tribune, March 23, 1934. Page 19.

in, be driven to compulsory arbitration and other forms of methods of preventing industrial peace-loving."

And two days later he writes, "Well the policy of obtaining unions will not work alone, as the employer, the government has lost the power to induce the employer, and must try to command him, and, on the other hand, there is no existing organization of labor ready to assume the responsibility and discipline it adequately. This can only produce exasperated conflicts: the employer resisting the command from outside; the employees assisted by the inability of anything to make him do anything."

But on the other hand, it is labor who seeks protection under our present economic system. The employer, as a rule, needs, as he is, to make money, and will seek to take care of himself. The employer is most able to protect himself, by the power of his capital and property. The struggle is the isolation of the "poorer classes" in the economic order over the protest of labor; and the abolition of this order without eliminating any of the qualities of classes, is gain of labor's protest. The other example is the failure of the original Knights of Labor; and the abolition of this order needed and wanted, to be succeeded by the Federation. The outcome was a compromise with which Gompers and Labor compromised, but left a more definite form behind.

Professor Ross's view of the employer in the case of Lockwood that he was a class in labor, is one which Gompers is better able to estimate his strength and

F. A. J. Gould Tailors, Journal of Lab. Econ. & Stat.
H. K. Gould Tailors, Journal of Lab. Econ. & Stat.

act with greater promptness and suddenness.[9] In the case of strikes, he says that the employer is more self-contained, uses diplomacy as his weapon, and is cool and indifferent toward what the striker sees as the "human element" and is to the employee a cause of agravation.[10]

We also read that "The rich people can thru their wealth make the government favor their own interests at the expense of the workers."[11]

In a letter to the Herald Tribune by Roger Baldwin, Director of the American Civil Liberties Union, and Arthur Garfield Hays, National Committee on Labor Injunctions, the statement is made that "Examination of the record of injunctions from 1875 to 1933 by Professor Paul F. Brissenden of Columbia University, showed that, whatever the facts, an employer has had and still has odds of four to one in his favor of getting an injunction on application, even though the only evidence is in affidavits."[12]

I have already mentioned the employer's coolness and indifference toward the needs of labor. Any social changes, as Walter Lippmann says, must come from labor's "direct action", while the employer sits back, failing to act until the pressure is so great that he can no longer disregard it. The employer's defiance of the government is an indication of the employer's

9. Based on "Organized Labor in America." By G.G. Groat. MacMillan Co., N.Y., 1926, Page 197.
10. Ibid. Page 210.
11. Your Job and Your Pay, Pollak and Tippett, Brookwood Labor Series, The Vanguard Press, N.Y., 1931, Page 218.
12. N.Y. Herald Tribune, Jan. 29, 1935. Page 22.

act with greater promptness and wholeness. In the case of strikes, he says that the employer is more self-sacrificing, uses diplomacy as his weapon, and is cool and intelligent in word what the worker sees as the "brute element" and is to the employer a source of a provocation.

We also read that "the rich people are those whose wealth make the government favor their own interests at the expense of the workers."[11]

In a letter to the Herald Tribune by Roger Baldwin, President of the American Civil Liberties Union, and Arthur Garfield Hays, National Counsellors on Labor Injunctions, the statement is made that "examination of the record of injunctions from 1915 to 1932 by professor Felix Frankfurter of Harvard University, showed that, whatever the facts, an analogous and still has odds of 1 to one in his favor of getting an injunction on application, even though the evidence is affidavits."[12]

I have already mentioned the sociologists opinions and indifference toward the work of labor. Any judicial opinion, as Walter Lippmann says, and I quote Lippmann's "Phenomenal", while the employer sits back, failing to get DAMS, the process is so great that he can no longer sleep[13]. The employer's defiance of the government is an indication of the degree of

9. Based on "Organized Labor in America," by [illegible], Williams Co., [illegible], Page [illegible].
10. Ibid. Page [illegible].
11. Your Job and Your Pay. [illegible], Page [illegible], Barnes, The Vanguard Press, [illegible], Page [illegible].
12. N.Y. Herald Tribune, [illegible], Page [illegible].

attitude toward upholding the law granting certain privileges to the laboring group. All that is needed is to hurl a few misstatements at the gullible masses as to labor's "monopoly plot", that the "A. F. of L. usurps power", and the grave consequences of labor's domination of industry, and they have won their point.

W. A. Rhodes, in a letter to the New York Times aptly states this indifference of employers. He states, "It is apparent to me, however, that employers are exceedingly reluctant in volunteering cooperation. They offer codes for approval that are so unreasonable one marvels at their effrontery. Then they compromise upon a code which allows them to carry on very much as if there had been no code at all, and it looks as if they are making very generous concessions."[13.]

As to the control of the press of the country, it is very evident that the employer's associations and organizations can have their own way. They are the ones who buy most of the advertising, so can control publishers by boycotts if they are not in sympathy with their views. Then too, the publishers themselves are, in many cases capitalists and employers too. They have views on labor issues and on domination by the "proletariat." They have vested interests to protect, so voice their opinions thru articles they buy and editorials written by experts employed by the publishers themselves. A magazine such as the Saturday Evening Post that depends so much on advertising, cannot afford to disagree in principles with the companies on whom it depends for

13. N. Y. Times. Aug. 13, 1933. Section 8. Page 5.

a subsistence. Industry and the press are closely tied together, but of the two, industry is the more dominating power.

B. The Labor Union Provision of the N.R.A. Have Stimulated the Warfare.

Section 7(a) guarantees certain inalienable rights to labor. Through interpretations by organized labor, by industry, by N.R.A. Administrator, by government boards, and by the President himself, there have been such a conflict of opinions that nobody knows what Section 7(a) really means. Consequently, both employers and employees have interpreted Section 7(a) to meet their needs, without any common ground of understanding between the two groups. Therefore it is not surprising that strikes have been so common since the N.R.A. came into being.

Senator Robert F. Wagner, Chairman of the National Labor Board made a report on labor disputes on April 15, 1934, and at that time pointed out "the fact that a minority of large employers, whose following has not diminished, persist in an attitude which does not make for industrial peace and constitutes a heavy obstacle in the way of the work of the boards."[14] "Strikes," he said, "rose from seventy-eight in February, affecting 56,000 workers, to 218 called in March, affecting 139,000 workers."[15]

Then last summer, "Clarence Darrow, former chairman of the recently abolished N.R.A. Review Board, said in an interview that the strike situation throughout the country are further grounds for his criticism of N.R.A."[16]

14. N.Y. Herald Tribune, April 16, 1934. Page 2.
15. Ibid. Page 92.
16. Boston Traveler, July 16, 1934. Page 8.

a substance. Industry and the rates are closely tied together, out of the two, industry is the more dominating power.

3. The Labor Union Provision of the N.I.R.A. does delineate the market.

Section 7(a) guarantees organize trailing to labor. Through interpretations by organized labor, by industry, by N.I.R.A. officials, by government boards, and by the President himself, there has been a conflict of opinions that notably shows what Section 7(a) really means. Consequently, both employers and workers have interpreted Section 7(a) to mean their own, without any common ground of understanding between the two groups. Therefore, it is not surprising that strikes have been to govern a code the N.I.R.A. came into being.

Senator Wagner, a member of the National Labor Board made a report on labor disputes on April 10, 1934, and at that time pointed out "the case of a minority of employers, whose following the spirit of the law, resorts to an attitude which does not seem to be in accordance at all with the attitude a body of men in the act to have the right of the bargain." "Strikes," he said, "rose from seventy-eight in February, affecting 20,000 workers, to 812 calls in April, affecting 150,000 workers."

Then last summer, "Dissatisfaction, the recently established N.I.R.A. Review Board, said in an interview that the strike situation there had been somewhat worse further grounds for the existence of N.I.R.A."

14. N.Y. Herald Tribune, April 10, 1934. Page 2.
15. Ibid. Page 22.
16. Boston Traveler, June 14, 1934. Page 8.

But let us see why in spite of a depression, strikes, since the N.R.A., have been occurring in such abundance and regularity as are experienced only in times of prosperity. One of the best articles on this subject appeared in the New York Times and was written by Lewis L. Lorwin, Institute of Economics, Brookings Institute. Professor Lorwin says, "Here then is a socio-psychological setting of the present industrial unrest", and then goes on to tell how labor was immediately stimulated to organize because in N.R.A. they saw a "Magna Charta", while to offset labor, employers immediately became defiant in order to "Maintain the status quo in industrial relations" and rallied "to the traditions of the past."[17.]

This situation set in motion a great era of conflict. "Measured by the usual standards, 1933 was the year of the greatest labor unrest since 1922. According to the Bureau of Labor Statistics, there were in the past year 1,561 strikes and lockouts, involving 812,317 workers and the loss of 14,818,847 man-days of employment. Incomplete figures for the first months of 1934--to the end of July--indicate a crescendo of labor unrest: 858 strikes and lockouts; 690,767 workers involved; 11,646,930 man-hours lost."[18.]

In the New York district alone, including New York, New Jersey, and Connecticut, "29 per cent of all disputes handled by the National Labor Relations Board system have been in the New York district----", which altogether had "623 strikes,

17. N. Y. Times, Nov. 8, 1934. Section 8. Page 3.
18. Ibid. Page 3.

"But let us see why in spite of a depression, strikes, since the N.R.A., have been occurring in such abundance and regularity as are experienced only in times of prosperity. One of the best articles on this subject appeared in the New York Times and was written by Lewis L. Lorwin, Institute of Economics, Brookings Institute. Concerning unrest he says, "There then is a socio-psychological setting of the present industrial unrest", and then goes on to tell how labor was immediately stimulated to organize because in N.R.A. they saw a "ray of hope", while to offset labor, employers immediately became defiant in order to "maintain the status quo in industrial relations" and rallied "to the traditions of capital."[17]

This situation was in a sense a great era of conflict. "Measured by the usual standards, 1933 was the year of the greatest labor unrest since 1922. According to the Bureau of Labor Statistics, there were in the past year 1,856 strikes and lockouts, involving 915,847 workers and the loss of 14,811,847 man-days of employment. Concerning labor the first months of 1934--at the end of "Alice-in-Wonderland" a crescendo of labor unrest: 934 strikes and lockouts; 2[illegible] workers involved; 11,[illegible],[illegible] man-hours lost."[18]

In the New York District alone, including New York, New Jersey, and Connecticut, 72% per cent of all disputes had, by the National Labor Relations Board, system have been in the New York District----", which also by the "2[illegible] strikes.

17. N. Y. Times, Nov. 5, 1933. Section [illegible], Page [illegible].
18. Ibid. Page 5.

involving 348,573 workers, have taken place---since the boards organization a year ago."[19]

These strikes have differed from other strikes in that a few of them "Since the passage of N.I.R.A. have been general of protracted struggles. Typically they have been flurries of rather brief duration. This becomes evident when we analyze them in terms of the number of man-days lost. In 1933 more than twice as many workers were involved in more than twice as many disputes as in either 1927 or 1928. But man-days last stood on the ratio of 37.8 for 1927, 31.5 for 1928 and only 14.8 for 1933."[20]

Another point of distinction with other strikes "Is the continous explosion of small, quick strikes localized for the most part within narrow areas and most of them confined to single establishments."[21]

"The majority of disputes since formation of the N.R.A. even some of those that were accompanied by great bitterness and violence were directed against individual employers or corporations."[22]

"It is also important to note that half of the industrial disputes in 1933 were concentrated in four industries: clothing, textiles, building trades and mining."[23]

As to the causes of this unrest, Professor Lorwin says, "This new factor of labor unrest which operates in this

19. N. Y. Herald Tribune, Nov. 5, 1934. Page 10.
20. N. Y. Times, Nov. 8, 1934. Section 8. Page 3.
21. Ibid. Page 3.
22. Ibid. Page 3.
23. Ibid. Page 3.

involving 340,000 workers, have taken place--since the organization a year ago."

These articles have differed from other articles in that a few of them "since the passage of N.I.R.A. have been leaders of protests against the [illegible] Many have been leaders rather than [illegible] direction. This becomes evident when we analyze them in terms of the number of [illegible] involved. In 1933 more than twice as many workers were involved in more than twice as many disputes as in either 1927 or 1929. In the first nine months of 1933 [illegible] 1927 and only 14.8 for 1929."

Another point of distinction with other [illegible] "In the continuous expansion of small, very active [illegible] for the most part within certain areas and most of them centered on single establishments."

"The majority of strikes since formation of the [illegible] even some of those that were successful by [illegible] bitterness and violence were directed against the [illegible] or corporations."

"It is also important to note that many of the [illegible] disputes in 1933 were concentrated in the industrial [illegible] ing, textiles, [illegible] and [illegible]."

As to the causes of this unrest, Prof. Taylor says, "This new factor of labor unrest which [illegible] is [illegible]

19. N. Y. Herald Tribune, Nov. 5, 1934. Page 10.
20. N. Y. Times, Nov. 6, 1934. Section 8. Page 6.
21. Ibid. Page 6.
22. Ibid. Page 6.
23. Ibid. Page 6.

gradual and cumulative fashion is Section 7(a) of the N.I.R.A. with its guarantee of the rights to organize and to bargain collectively.

"A sizable number have been caused by demands for wage increases----. Other strikes have been motivated by the attempts of unions to apply external pressure and thus hasten the passage of codes with favorable labor provisions or to obtain better labor standards than were contained in the codes.

"But essentially and typically, the strikes of 1933-34 have been organizational strikes, to enforce the right to organize, and to obtain union recognition.

"In all campaigns the demand for union recognition was uppermost, and that meant the demand that employers sign collective wage contracts to which the union would be an express party."[24.]

Professor Lorwin gives certain alternatives as a solution to this strife. He gives the first as "Let things alone." "Strikes are not new----and they are not all to the bad. A competitive economic system based on struggle cannot avoid strikes, nor can it do without them.----The danger is that the heat of the struggle may engender results which will be serious to all of us.

"The other is to accept the rule of fact and reason: This means that the government is to play umpire in the industrial contest. It must set up fact-finding bodies---, establish the authority of the new labor boards as courts of industrial law,---devising enforcement procedure which would

24. Ibid. Page 3.

gradual and cumulative function in modern life of the I.W.W. as with its purposes of the right to organize and to bargain collectively.

"A sizable number have been assaulted or deported for their interests----. Other activities have been controlled by the attempts of unions to apply external pressures and thus bypass the payment of codes also intolerable in our big industry or to obtain better labor standards than were contained in the codes.

"But essentially and typically, the efforts of labor have been organizational efforts, to enlarge the right to organize, and to obtain union recognition.

"In all campaigns the demand for union recognition was uppermost, and that means the demand that employers stop contesting union organizers to which the union would be an organized party."

Professor Lorwin gives certain statistics as a conclusion to this article. He gives the first and "let them alone." "strikes are on ----and they are not all to the bad. A compulsory economic system based on strength cannot avoid strikes, nor can it do without them.----The question is that the best of labor's rights may be under peaceful union will to serious to all of us."

"The other is to accept the rule of fact and reason: this means that the government is to play a role in industrial conflict. It must act by fact-finding bodies---, establish the authority of the new labor board as courts of industrial law,---by bringing disagreement upon one within moral. Ibid. Page 3.

put into effect the principles developed by such boards and courts.

"But above all this we must develop a new attitude toward labor organization and collective negotiations.

"Or industry can come forth with a new concept of leadership--which will allow for the growing maturity of workers in industry. In that case, the undoubted difficulties inherent in collective dealing will be more than compensated for by the elan of concerted national progress toward a new order of industrial reason."[25]

In connection with this, Professors Tead and Metcalf in their book "Labor Relations under the Recovery Act" say, "Industrial Leaders and Managers have an impressive opportunity under the National Industrial Recovery Act to institute experiments which look to reconciling the aim of more and better goods and happier and finer people who shall make and consume them. They have an opportunity which they may ignore only at their peril. For the shift to broader objectives and to more democratic means of assuring them unmistakably commenced. And it will unquestionably continue even when the present emergency legislation has expired."[26]

C. Some of the Major Strikes and Their Outcome.

Let us look into some of these big strikes and see their causes, circumstances involved, and their eventual outcome.

1. Textile Strike.

One of the first conflicts of major proportions was the

25. Ibid. Page 3.
26. Labor Relations Under the Recovery Act. Tead and Metcalf, Whittlesey House, McGraw Hill Book Co., Inc., N.Y., 1933 Pages 233-4.

Textile Strike. This strike may be divided into two parts--the first of short duration, and the second of a "general strike" nature.

The causes of the first textile strike are set forth in a statement made by General Hugh S. Johnson at the time of its settlement. He says, "'Labor representatives in the present conference now concede that the real issues are:

"'1. Their right to represent members of their union in collective bargaining;'

"'2. Certain other grievances alleged to be in violation of the Code; but principally;'

"'3. A demand for an increase of 331/3 per cent in the labor element of the cost of cotton textiles.'"[27]

The outcome of this controversy was a settlement having the following terms:

1. Strike order countermanded without prejudice to the right to strike.
2. A representative of employees appointed labor adviser to government members on the textile code authority.
3. A representative of employees appointed to the Labor Advisory Board.
4. Authority of Cotton Textile National Industrial Relations Board to be defined. Membership board to be increased.
5. If above conditions are acceptable, the Textile Code authority will be urged to accept and agree to abide

27. N.Y. Herald Tribune, June 3, 1934. Page 16.

Textile Zeitung. This strike may be divided into two periods--the first of about duration, and the second of a "general strike" nature.

The demands of the first textile strike were set forth in a statement made by General Hugh S. Johnson at the close of the settlement. He says, "Labor representation in the present conference now extends that the real issues are:

"1. Their right to organize members of their union in collective bargaining;

"2. Certain other grievances alleged to be violation of the Code; but collectively;

"3. A demand for an increase of 50\25 per cent in the labor element of the cost of cotton goods."[2]

The outcome of this controversy was a compromise between the opposing interest:

1. Strike order countermanded without prejudice to the right to strike.

2. A representative of employees appointed labor advisor to government agencies on the textile code authority.

3. A representative of employees appointed to the labor advisory board.

4. Authority of Cotton Textile Code Labor Relations Board to be modified. Wages should be increased.

5. If above conditions are acceptable, the textile code authority will be asked to amend the code to a[illegible]

[2] N.Y. Herald Tribune, June 1, 1934, Sec 1A.

by the foregoing amendments.

6. Provisions of investigations and reports on:
(a) Machines necessary, (b) Wage increases
(c) Maintenance of wage differentials, (d) Changes in man-hours productivity, (e) Work load and the stretch-out.

7. Duties of Cotton Textile Industrial Labor Relations Board.

8. Necessity for temporary reduction in machine hours.[28]

Both industry and labor were satisfied with the settlement, but the strike which was to come, was based more on what wasn't done on the terms of this settlement, than what the employers did. The above settlement turned out to be nothing but promises.

The second strike was the real one. Less than two months after the settlement of the first one, we begin to hear rumblings of the second.

"The newly created National Labor Relations Board---- under the direction of chairman Lloyd K. Garrison---made proposals to avert the threatened walkout of 600,000 to 750,000 workers in the Textile Industry."[29]

The Cotton Textile Union, through its spokesman Francis J. Gorman, said that they would "'Accept chairman Garrison's invitation partly out of the very real respect which we have for him and for his office and partly because we shall never refuse to meet any sincere person for a discussion of our

28. Based on Ibid. Page 16.
29. N. Y. Herald Tribune, Aug. 28, 1934. Page 5.

problems.'"[30]

On the other hand the employers thru George A. Sloan, their spokesman, sent a telegram to the National Labor Relations Board which ends up with, "In view of this situation (organized labor forcing the 'strike with certain accompanying intimidation'), we are unable to enter into conference with the group threatening the strike."[31]

In the same telegram refusing mediation, were certain suggestive accusations on striking against the government. Mr. Sloan stated, "The government, the public and the industry are now confronted with the threat that unless the law is changed and changed immediately the industry will be closed by strike and kept closed until these changes are made." And later, "A strike with certain accompanying intimidation is in our view an improper method of forcing--- the Code Authority and the government into Code Amendment."[32]

The chief complaints of labor against the Textile Industry are best expressed by Mr. Gorman to be as follows:

"'1. An unbearable work load has been thrown upon the workers in an effort to cut production costs under existing conditions;'

"'2. Earnings in the industry are now at pre-code levels, and the rates paid the more skilled workers are being pushed down toward the minimum;'

30. N.Y. Herald Tribune, Aug. 29, 1934. Page 9.
31. N.Y. Herald Tribune, Aug. 30, 1934. Page 10.
32. Ibid. Page 10.

"'3. The industry has recognized the fact that it cannot operate on a forty hour week basis, and is working for an extension of the summer curtailment which has reduced all weekly wages 25 per cent;'

"'4. Section 7(a) of the N.R.A. is being ignored, and hundreds of workers have been discharged for their activity in labor organization and collective bargaining.'

"'Between August 6, 1933, and August 12, 1934, 1028 complaints on the stretch-out were submitted to the Cotton Textile National Industrial Relations Board for investigation.'"[33]

Next day Mr. Gorman elaborated on the matter of wages thusly: "'The code minimum per week is $12. By a combination of circumstances we find that the actual wage paid to textile workers today is about $10 and I think that is a generous figure. This is because so few are able to get a full week of work. Out of the half million cotton textile workers as many as 200,000 or two-fifths, are unemployed."[34]

It is interesting to note how closely the facts in the report of the President's Mediation Board corroborate the above statements on problems in the industry.

From the above problems, it is easy to deduce what demands labor would make on the employers of the textile workers. The "Four demands of the union constitute the main

33. N.Y. Herald Tribune, Aug. 29, 1934. Page 9.
34. N.Y. Herald Tribune, Aug. 30, 1934. Page 10.

point of the controversy, they are:

"1. A five-day thirty-hour week, with no reduction in the present weekly wage for the forty-hour week; graduated minimum wage scales for all classes of employees and uniform rates for all sections of the industry.

"2. A limit of the speed-up or stretch-out system under which, it is represented, individual workers are now required to work as many as fifty-six looms. It is represented that this is thirty-six more than one employee was called on to handle in 1929.

"3. Recognition of the union and reemployment of all workers discharged because of union activity.

"4. Creation of a mutually satisfactory arbitration board with power to make binding decisions."[35]

At the same time that the textile strike was going on, allied industries were adding to the aggravated conditions by joining into the fray. "Peter Van Horn, chairman of the Silk Code Authority, announced----in an address----broadcast over the Columbia Network, that, as an impartial leader in the industry and with no financial interest in it, he had appealed to silk manufacturers to carry on in spite of the strike, and "Not to enter into any separate agreement of any kind with the labor leaders.'"

"He did this", he said, "because of his conviction that it was an unfair strike, called by labor leaders for the sole purpose of gaining union recognition and effecting agreements with manufacturers outside of the provisions of the code."[36]

Of course strikes can hardly exist without warfare, not

35. N.Y. Herald Tribune, Sept. 21, 1934. Page 1.
36. N.Y. Herald Tribune, Sept. 4, 1934. Page 3.

because it infers warfare, but because the employer can hold out more easily against the workers. They will not accede to the demands of labor unless labor does more than "cease work."

During the textile strike, real warfare was a common occurrence to the extent that "The struggle reached fiery intensity during the three weeks of its existence,----which cost the lives of 20 strikers and the wounding of hundreds."[37.]

And again, "The growing strike movement---is characterized by the following main feature(s): (a) the national and local governments reverted to increasing use of violence against the workers on strike; practically in every strike the National Guard was called out; in general, growing fascist and semi-fascist methods of suppressing strikes were used by the government supplemented by fascist organizations and armed thugs, resulting, in most of the strikes, in the killing and wounding of strikers, intimidation of the foreign-born workers, etc.--"[38.]

Francis J. Gorman of the Textile Workers' Union, "Asserted today that some textile manufacturers were stocking up on machine guns and tear gas, preparatory to trouble in the threatened general labor strike."[39.]

In order to find out the real issues behind the textile controversy, a board of inquiry was appointed by the President on September 5, 1934. This board consisting of John G. Winant, Governor of New Hampshire, Chairman, Raymond V. Ingersoll of Brooklyn, N.Y. and Marion Smith of Atlanta, Georgia, submitted their report to the President on Sept. 20, 1934.

37. The Communist, Nov., 1934. Page 1107. Lessons of the Great National Textile Strike, By Carl Reeve.
38. The Communist, Oct., 1934. Page 969.
39. N.Y. Herald Tribune, Aug. 28, 1934. Page 5.

because it injures workers, but because the employer can hold out more easily against the workers. They will not succeed in the demands of labor; hence labor does more than "cause work."

During the textile strike, real workers had a common concurrence to the extent that "the strike is revealed clearly illustrating the inner works of its existence,----which most the lives of 20 strikers and the wonderful of workers."

And again, "The growing textile movement---is characterized by the following main features(s): (a) its national and local governments harassed by increasing war of violence against the workers-on strike; practically in every as the two national board was called out; in general; growing isolated and sensitive methods of suppressing strikes were used by the government supplemented by fascist or militarist methods; the result, in most of the strikes, in the military attachment of strikers, imprisonment of the "ringleaders" and---

Francis J. Gorman of the Textile Workers' Union, "Asserted today that some textile workers were struggling on machine guns and bayonets, preparatory to coming in the throughout general labor strike."

In order to find out the real issues behind the textile controversy, a board of inquiry was appointed by the President on September 6, 1926. This board consisting of John J. Tobin, Governor of New Jersey, Chairman, Herman A. Metz of Brooklyn, N.Y. and Martin Smith of Albany, N.Y., submitted their report to the President on Feb. 28, 1927.

27. The Communist, Nov., 1926. Page 1170.

28. The Communist, Dec., 1926. Page 1170.
29. N.Y. Herald Tribune, Aug. 28, 1926. Page 2.

The four main problems and their recommendations are treated at length in the report. For the first of these problems, "The recognition issue", the Board recommended "'That under the circumstances of this situation, an industry wide collective agreement between the employers as a group and the United Textile Workers is not at this time feasible.'"[40.]

The second problem "Machinery for enforcing labor rights under the N.R.A. and the Textile Code." The Board "Said that no satisfactory machinery now exists whereby workers can be insured against a violation of their rights," so they "recommended that a new board, to be called the Textile Labor Relations Board be created to examine into all such charges and to see that the right of labor to organize is enforced."[41.]

The third point at issue is "Wages and Hours." "The board said that that question (of ability of the industry to pay higher wages) should be left to an investigation to be conducted by the Federal Trade Commission." The matter of whether the workers are receiving less than living wages "be determined by an investigation----by the Bureau of Labor Statistics of the Department of Labor", and that body also to find out if "Higher priced employees are having their wages cut."[42.]

And the fourth problem, "The Stretch-out", was found to have existed since 1923. "The board calls for an investigation to see what is happening along this line-----."

"These recommendations do not---solve the problems---. They do not give public recognition----that grievances exist

40. The American Observer, Oct.1, 1934. Page 7.
41. Ibid. Page 7.
42. Ibid. Page 7.

The four main problems and their recommendations are treated at length in the report. For the first of these problems, "The recognition issue", the Board recommended "that under the circumstances of this situation, an industry wide collective agreement between the employers as a group and the United Textile Workers is not at this time feasible."

The second problem "machinery for enforcing labor rights under the N.I.R.A. and the Textile Code," the Board "felt that no satisfactory machinery for action upon complaints can be insured against a violation of their rights." So they "recommend that a new Board", to be called the "Textile Labor Relations Board be created to step into all such cases, protect and be sure that the rights of labor are observed."

The third problem is the "Wages and Hours". The board said that they recommend the adoption of the industry so by higher wages and hours be left to an impartial tribunal to be constituted by the Federal Trade Commission." The "Board" whether the workers are receiving less than living wages be determined by an impartial tribunal----the Bureau of Labor Statistics of the Department of Labor". The Board also to find out if "the hours worked are reason" by taking their wages out.*

And the fourth problem. "The Freedom-Act", was found to have related since last. The board calls for an impartial to see what is happening from this time----

"Then recommendations do not----solve the problem----. They do not give Textile Workers----that is the Amerigan Federation of Labor.

40. The American Federation of Labor. t.l. 1.
41. Ibid. Page 7.
42. Ibid. Page 8.

in the Cotton Textile Industry.-----The President has given indication that he will see that the recommendations are carried out."[43]

The above report then, offers no immediate solution to the problems, but simply offers recommendations meaning that "The Winant Report which was accepted by Gorman as a 'sweeping victory' gave the workers absolutely nothing. The National strike demands were for the 30 hour week; minimum wages for skilled and semi-skilled as well as unskilled and higher wages; abolition of the stretch-out, and recognition. Not a single demand was won."[44]

The Winant Board besides acting as an inquiry board, also made an effort to reconcile labor and employers in the textile strike. In the report of this inquiry board, reference is made to their efforts to mediate the strike issues in the following paragraph: "The board is empowered to act as arbitrator upon voluntary submission of ths issues by both parties. On Saturday, September 8, the United Textile Workers offered to submit all issues in controversy to arbitration by the board on certain terms and conditions. The board immediately called the heads of the Cotton Textile Institute to Washington to consider the possibilities of this proposal. On Tuesday and Wednesday, September 11 and 12, the board conferred at length with a group of representative employers. The board urged the employers to agree to arbitration that would be mutually satisfactory. The employers, however, refused to arbitrate."[45]

43. Ibid. Page 7.
44. The Communist, November, 1934. Page 1117.
45. N.Y. Herald Tribune. Sept 21, 1934. Page 12.

In the Cotton Textile Industry ---- the President has given indication that he will see that the recommendations are carried out."[45]

The above report then, offers no immediate solution to the problems, but clearly offers recommendations meaning that "the Minimum Report which was supposed to serve as a 'sweeping victory' gave the workers absolutely nothing. The National strike demands were for the 40 hour week; minimum wages for skilled and semi-skilled as well as unskilled and an increase wages; abolition of the speed-up, and recognition. Not a single demand was met."[46]

The Textile Board meanwhile acting as an inquiry board, also made an effort to reconcile labor and employers in the textile strike. In the report of this inquiry board, mention was made to their efforts to secure the strikers issues in the following paragraph: "The board is expected to act as arbitrator upon voluntary submission of the issues by both parties. On Saturday, September 9, the Textile workers offered to submit all issues in controversy to arbitration by the board on certain terms and conditions. The board immediately polled the heads of the Cotton Textile Institute to Washington to consider the practicability of this proposal. On Monday and Tuesday, September 11 and 12, the board conferred at length with a group of these industry employers. The board urged the employers to agree to arbitration that would be mutually satisfactory. The employers, however, returned to strikers."[47]

45. Ibid. Page 7.
46. The Communist, November, 1934. Page 1170.
47. N.Y. Herald Tribune. Sept 23, 1934. Page 12.

During the strike, the New York Herald Tribune, in an editorial entitled "The President's Chance" gave the Administration some advice. "Here may well be", says the editorial, "the last chance that the present Administration may have to return American labor to its old self-regulated independence and halt the installation of great national unions----, with their obvious threat of a general strike that the able and vigorous Mr. Gorman incautiously waved for a moment the other day.

"It is a strike not for the present but for the future, to secure here and now under the aid and comfort lent by the President and his radical advisers such centralized organization of labor as to make it not a bargainer but a dictator in the future."[46]

It is a bad policy for a government official, who is supposed to be neutral, to come out either for or against any one side in a controversy. The case of General Hugh S. Johnson was no exception. He had no business in severely criticizing labor in their attitude toward conditions in the textile industry.

This is what General Johnson said which brought on to him the wrath of organized labor in the textile industry: "Last June---a strike was threatened in the textile industry. We reached an agreement on that controversy, and, on that agreement, the strike is in absolute violation of that understanding. And I must say here, with all the solemnity which should characterize such an announcement, that if such agreements of

46. N.Y. Herald Tribune, Sept. 11, 1934. Page 14.

Among the article, the New York Herald Tribune, in an editorial entitled "The President's Counsel" gave the Association some advice. "Here may will be", says the editorial, "the last chance that the organized Association may have to return American labor to its old self-reliant independence and make the tradition of great rationalistic unions----, which their civilous theory of a paternal state that the solid and vigorous men. Women instinctively saved for a rainy and cloudy day.

"It is a crisis not for the president but for the nation, to secure here and now under the old and solemn law of the President and his medical advisers that organization or union of labor as to make it not a burden or but a blessing for the future."

It is a sad policy for a prominent activist, who is supposed to be neutral, to come out without for propriety any one side in a controversy. The case of General Johnson was no exception. He had no doubt been in sympathetic labor in their activities towards political in the country.

This is what the Local Journal which brought on to his the wrath of organized labor in the Herald Tribune June---a article was published in the Saturday Evening. He gives an opinions on anti-communism, and on hard a-[illegible]ment. The article is in the always also [illegible] And I must say here, also [illegible] the relationship [illegible] American people such an announcement. This is such [illegible] N.Y. Herald Tribune. Sept. 11, 1934.

organized labor are worth no more than this one, then that institution is not a responsible instrumentality to make contracts on which this country can rely."[47.]

Of course, that was a very serious statement to make, not only because it came from a government official, but because it also added strength to the constant attacks made by industry on organized labor.

Labor gets the brunt of the criticism because of mass action which necessarily comes from collective action.

George A. Sloan, president of the Cotton Textile Institute, took occasion in a statement to say, "To cast that (orderly) procedure (of the act) aside and substitute the duress of a strike to force code amendment is to destroy confidence in the Recovery Act. It is a blow aimed at the recovery program,----"[48.]

The N.Y. Herald Tribune calls the textile strike "A challenge to Democracy", in an editorial published last September, 1934. The last paragraph in part says, "The major objective (of the strike) continues to be that 'control' of industry through N.R.A.--which-------would establish a precedent for the use of the strike as a political weapon through which representative government would soon be relieved of its responsibilities by organized labor in all but the most perfunctory matters. It is, therefore a challenge to democracy which it is the duty of the Administration to interpret and face as such."[49.]

47. N.Y. Herald Tribune, Sept. 15, 1934. Page 3.
48. N.Y. Herald Tribune, Aug. 31, 1934. Page 2.
49. N.Y. Herald Tribune, Sept. 1, 1934. Page 8.

organized labor are doing no more than it is, then that institution is not a responsible instrumentality to make contracts on which this country can rely.

Of course, that was a very serious statement to make, not only because it came from a government official, but because it also added strength to the contract schemes made by industry or organized labor.

Labor gets the brunt of the criticism because of the action which necessarily comes from collective action.

George A. Sloan, president of the Western Textile Institute, took occasion in a statement to say, "To each (order) procedure (of the NRA) exists and authorizes the duress of a strike to force code compliance in a manner consistent to the recovery act. It is a plan alien to the recovery program.----"

The N.Y. Herald Tribune calls the writing strike "a challenge to democracy". In an editorial published last September, 1934. The first paragraph in part says, "The major objective (of the strike) continues to be total control of industry through N.R.A.--which--------will control a procedure for the use of the strike as a political weapon through which departmentative government would be reduced of its responsibilities to organized minority in all but the most peripheral matters. It is, therefore, an affront to democracy which it is the duty of the Administration to interpret and face as such."

27. N.Y. Herald Tribune, Sept. 15, 1934. Page 8.
28. N.Y. Herald Tribune, Aug. 21, 1934. Page 2.
29. N.Y. Herald Tribune, Sept. 9, 1934. Page 8.

Finally after all this wrangling and warfare the strike ended Sept. 22, 1934 and the recommendations of the Inquiry Board were put into effect by President Roosevelt on September 26, 1934. "President Roosevelt not only created the new textile board, but in the same executive order directed action to carry out the other recommendations of the Winant Board of Inquiry----."[50.]

And on Oct. 17, 1934 we read, "With four executive orders President Roosevelt tonight (Oct. 16) took the last step in carrying the recommendations of the Winant Board of Inquiry---.

"In the orders the President provided for the creation of three textile work assignment boards, one each for the cotton, silk, and wool textile industries to govern the so-called 'stretch-out' system against which organized labor had protested."[51.]

In statements in regard to the Winant report, "Francis J. Gorman---hailed the result as a great victory for the textile workers and for organized labor in general."[52.] While George A. Sloan in a "Statement noted with gratification that the Winant Board has 'sustained the position' of the industry.----"[53.]

Both parties evidently were quite satisfied with the report, but one dispute had no sooner been settled than another seemed imminent.

On September 24, "The end of the textile strike today

50. N.Y. Herald Tribune, Sept. 22, 1934. Page 37.
51. N.Y. Herald Tribune, Oct. 17, 1934. Page 2.
52. N.Y. Herald Tribune, Sept. 23, 1934. Page 1.
53. N.Y. Herald Tribune, Sept. 28, 1934. Page 6.

was accompanied by charges that thousands of workers who had joined the United Textile Workers were being locked out and discriminated against by employers,"[54] while "many mills failed to open immediately,"[55] and in others, "union members reported mill managements planned to force all union members to go thru a 'rehiring' process and to sign some sort of 'pledge'".[56]

And because of these conditions, "Gorman warns of new strikes in textile mills," when he "announced that 500 workers at Whitmire, S.C. had struck in protest against discriminations and that employees of mills at Roanoke Rapids, N.C., had voted to strike on Monday. 'I very much fear there will be no way of stopping more strikes in Southern mills unless the attitude of absolute resistance to the President's program is changed', Mr. Gorman said."[57]

The matter of discriminations was so common that the National Textile Labor Relations Board issued a statement that "The board expects the industry to re-employ those who were in the mills before the strike without further delay and without discrimination.--"[58]

2. Steel Strike.

The second big strike was that of the steel industry. The reasons for a conflict in this industry are aptly treated in an editorial on "The Steel Code" in "The Nation." "Steel is the heart of American industry and the men in

54. N.Y. Herald Tribune. Sept. 25, 1934. Page 1.
55. Ibid. Page 1.
56. Ibid. Page 12.
57. N.Y. Herald Tribune, Oct. 24, 1934. Page 6.
58. N.Y. Times, Nov. 7, 1934. Page 25.

was accompanied by charges that thousands of workers who had joined the United Textile Workers were being locked out and discriminated against by mill owners.[84] While "many mills failed to open immediately,"[85] and in others, "union leaders reported mill managements planned to force all union members to go through a 'rehiring' process and to sign some form of 'pledge'."[86]

And because of these conditions, "serious cases of new strikes in textile mills," when the "employees had been workers at Goldmine, S.C. had already had protest against discriminations and that employees of mills in Kannapolis, N.C., had voted to strike on Monday. If very much more there will be no way of stopping the strikes in Kannapolis unless the attitude of the mill managements to the President's program is changed', Mr. Herman said."[87]

The matter of discrimination was so serious that the National Textile Labor Relations Board issued a statement that "The board expects the industry to re-hire those who were in the mills before the strike without further delay and without discrimination."[88]

3. Steel Strike.

The second big strike was that of the steel industry. The reasons for a conflict in this industry are aptly treated in an editorial on "Steel Code" in "The Nation." "Steel is the heart of American industry and the men in

84. N.Y. Herald Tribune. Sept. 20, 1934, Sec. 2 p.1.
85. Ibid. Page 1.
86. Ibid. Sec. 2 p.
87. N.Y. Herald Tribune, Oct. 2, 1934, Sec. 2 p.
88. N.Y. Times, Nov. 7, 1934, Page 5.

control of steel are also those who wield the greatest financial power in the country. Attempts at labor organization have time and again dashed themselves to bloody bits on the threshold of the United States Steel Corporation. Wages have been held down and hours held up by the same firm hands that have fixed prices and controlled output."[59.]

The attitude of the Iron and Steel Institute toward organized labor is well expressed in the above paragraph.

The institute will have absolutely nothing to do with organized labor in any way. And as Tom M. Girdler, a member of the Institute put it, shows the defiant, "hard-boiled" attitude of these steel men when he said, "If anybody wants to deal with Bill Green and John Lewis all the rest of his life in the steel industry--and I don't see why he does--I don't see how he is going to do it. I have a little farm with a few apple trees, and before spending the rest of my life dealing with John Lewis I am going to raise apples and potatoes."[60.]

Another indication of their attitude is expressed in a "Statement by the 'rank and file' union committee at the time of the strike when they said, "Last autumn when Secretary Perkins invited those high and mighty gentlemen into the same room with a labor man they grabbed their hats and tramped out."[61.]

So, because of the inability of both groups to come

59. The Nation, July 26, 1933. Page 89. Vol. 137: No. 35551.
60. N.Y. Herald Tribune, May 25, 1934. Page 27.
61. N.Y. Herald Tribune, June 8, 1934. Page 12.

together on a common understanding, the "Steel peace fails; (and) strike meeting (is) called." The union termed the proposals of the Iron and Steel Institute----'an insult to every worker' and they declared they had lost their faith in the Administration.

"'If the government willnot help us, then we must use the only means left to us,' they asserted."[62]

Wm. Green very promptly advanced a "Steel peace plan" of his own in order to end the differences between employers and employees. He suggested; first, "An impartial body of three members be appointed by the President--clothed with authority to act "On complaints, disputes and discriminations; second, "The impartial body---shall be clothed with authority to order and hold elections under the board's direction" and such representatives elected are "to be recognized for---collective bargaining;" third, "All grievances and complaints regarding wages, hours, and conditions of employment be settled" first, between company and representatives chosen; but where no agreement can be reached, then it will "Be referred by mutual agreement to the impartial body---for final determination; Fourth, if the above recommendations are accepted, "The threatened strike be declared off" and "all questions in controversy will be handled and adjusted in the manner and method prescribed herein."[63]

Just so that the steel men wouldn't show that they had changed their attitude, "The plan as adopted (by the Amalgamated Association of Iron and Tin Workers at their Pittsburgh

62. N.Y. Herald Tribune, June 10, 1934. Page 16.
63. N.Y. Herald Tribune, June 16, 1934. Page 12.

together as a common undertaking, the "real union feeling (and) little sections (lo, 'raised,' this union (union) propaganda of the Iron and Steel Workers----'Hail to every worker' and they declared that had left unfinished the administration.

"If the government without only so, [illegible] the only means left to us,' [illegible] answered."

Mr. Green very quoted by advocated a "total basis" for of his co, in order to and the differences between employers and employees. He suggested: First: "An [illegible] [illegible] members to be accepted by the [illegible] and--[illegible] to act "in complete, [illegible] and [illegible]; [illegible]. "The impartial [illegible]--shall be [illegible] with authority to order and hold elections under the [illegible] and [illegible] representatives elected [illegible] to be [illegible]--collective bargaining;" this. "All [illegible] and conditions [illegible], wages, hours, and conditions of employment [illegible] between company and [illegible] representatives [illegible]; if under no agreement can be reached, then it will "be [illegible] that agreement to the [illegible] [illegible]--for final determination; [illegible]. If the above recommendations are accepted, "the [illegible] mining in [illegible] of." and "all [illegible] in controversy will be [illegible] and [illegible] in the manner and method prescribed [illegible]."

Just so that the [illegible] can [illegible] how they [illegible] changed their activity. The [illegible] [illegible] [illegible] Mailed Association of Iron and Tin Workers [illegible] [illegible]

[illegible]. [illegible] Tribune, June 16, 19[illegible]. [illegible] 16.
[illegible]. [illegible] Post, June 16, 19[illegible]. [illegible] 16.

Convention) was not considered acceptable by representatives of the steel companies in this district. They pointed out that while steel operators might accept some plan of proportional representation, if election of representatives were accepted at all, there had been a determined stand against representation being solely on the majority vote."[64.]

And to further make clear their stand, the American Iron and Steel Institute in a statement reiterated their previous attitude toward organized labor. "To accede to the closed shop, the statement said, would 'be rank treachery on the part of employers, since it would force the employees into a union in most cases against their wishes, and compel every employee to pay tribute in the form of union dues for the right to work.'"[65.]

One of the steel companies, that was going to make an issue of the interference of the Steel Labor Relations Board in their labor affairs, was the Worth Steel Company of Claymont, Del. It said it "Would challenge the constitutionality of the Recovery Act"; "Told the board in a brief that both the Act's labor clause (Section 7(a)) and the resolution under which the President set up the board was unconstitutional; and "Even if both the N.I.R.A. and the resolution were constitutional, the company further asserted, they did not apply to the Worth concern, nor did the board have any jurisdiction to handle complaints against it by the" outside union.[66.]

64. Ibid. Page 12.
65. Ibid. Page 12.
66. N.Y. Times. Sept. 5, 1934. Page 5.

convention) was not considered acceptable by majority delegates of the steel companies in this industry. They protested over that while steel-workers might accept some form of proportional representation, it ignored the fact that they were accepted at all, thereby had been a deterrent step against representation being held on the majority vote.[64]

And to further make clear their stand, the American Iron and Steel Institute in a strongly worded resolution made previous attitude toward organized labor. "To accede to the closed shop, the statement said, would be such surrender on the part of employers, since it would force them really into a union in most cases against their wishes, and compel many employees to pay tribute to one form of union for the right to work."[65]

One of the steel resolutions, many not alone to a new issue of the interference of the Steel Labor Relations Board in their labor affairs, was the Board's "Report on Lay-off". It said it "could obtain" the constitutionality of the Recovery Act"; "Told the Board it was a violation of both the Act's labor clause (Section 7(a)) and the Constitution"; which the President met by "the Board's new unconstitutional; and "Even if both the . . . . . and the Constitution were constitutional, the company further asserted, they did not apply to the North concern, nor did the Board have any jurisdiction to handle a complaint involving it."[66] "Not" [illegible]

64. Ibid. Page 12.
65. Ibid. Page 13.
66. N.Y. Times. Sept. 6, 1933. Page 6.

Later the company backed down from its defiant stand, and a peaceful settlement was reached. (See Chapter 5).

3. Garment Industry Revolt.

The third controversy was that of the Garment Industry. It started the fray with a defiance to President Roosevelt, by resolving: "1. That the cotton garment industry cannot accept or acquiesce in the wage and hour provisions and Section 15 of said order." and "6. That the industry does hereby authorize and direct its counsel to take such legal step is necessary, as may be proper in the protection of the rights and interests of the members of said industry."[67.]

The International Ladies' Garment Workers' Union immediately sent a telegram to President Roosevelt which said in part, "Since this defiant challenge to your authority was issued by the very men charged with the duty of enforcing this code, we feel that it would have a salutary effect upon all industries and upon the recovery program as a whole if immediate steps were taken under the authority you possess to remove those members of ths code authority who participated in the adoption of this resolution of defiance. No group of men, who publicly declare that they will not observe and comply with an order duly made should any longer be entrusted with the duty of enforcing the law of the industry upon others."[68.] It sounds like "tit-for-tat" for industry registered the same kind of protest when labor failed to comply with an order.

67. N.Y. Herald Tribune, Aug. 28, 1934. Page 6.
68. N.Y. Herald Tribune, Aug. 30, 1934. Page 10.

Later the company backed down from its defiant stand, and a peaceful settlement was reached. (See chapter 6).

3. Garment Industry Crisis.

The chief controversy was that of the Garment Industry. It reached the army with a defiance to President Roosevelt by pronouncing: "1. That the cotton-garment industry cannot accept or acquiesce in the more and that regulations and decision of said order." and "2. That the industry does hereby authorize and direct its counsel to take such legal step as necessary, as may be proper in the protection of our rights and interests of the members of said industry."

The International Ladies' Garment Workers' Union immediately sent a telegram to President Roosevelt which read in part, "Since this defiant challenge to your authority was issued by the very men charged with the duty of an orderly code, we feel that it would have a salutary effect upon all industries and upon the recovery program as a whole if immediate steps were taken under the authority vested in you to remove those men who of the code authorities who participated in the adoption of this resolution of defiance. In view of men, who publicly declare that they will not observe and comply with an order only were enacted any longer be entrusted with the duty of enforcing the law of the industry upon others."[67] It added like "tit-for-tat" for industry to control the same kind of process. Then labor failed to comply with an order.

67. N.Y. Herald Tribune, Nov. 9, 1934, Page 6.
68. N.Y. Herald Tribune, Nov. 30, 1934, Page 10.

After waiting four months for results, the union had its wishes complied with for on Dec. 6, 1934, "The National Industrial Recovery Board---today ordered the removal of all directors and officers of the International Association of Garment Manufacturers from the Code authority of the Cotton Garment Industry." These "Eleven manufacturers" were stripped of "posts on the code board over delay on (the) 36-hour week, (and) 10% pay rise."[69.]

Because of the protest by the Garment Institute registered by a defiance order, "President Roosevelt tonight granted a stay until October 15 of his executive order which on October 1 would have reduced hours in the Cotton Garment Industry from forty to thirty-six and increased wages by 10 per cent.

"At the same time the President directed the National Industrial Recovery Board to appoint a committee of three impartial persons to hear the protests of the industry----."[70.]

The board was also to "'Investigate the facts and report its recommendations on or before Oct. 10, 1934.'"[71.]

Why Mrs. Pinchot, with her radical views should have been invited to speak before such a conservative group as the members of the Cotton Garment Industry, is a mystery to me. But what she gave them was common, practical advice. "'I know,' Mrs. Pinchot said, 'there have been a great many dishonest and racketeering labor leaders. Nevertheless, I believe there has got to be some representation of workers in

69. N.Y. Herald Tribune. Dec. 7, 1934. Page 1.
70. N.Y. Herald Tribune. Sept. 29, 1934. Page 23.
71. Ibid. Page 23.

industry. The unions are the American way to industrial peace. If some recognition is not given them, it will give radical leadership a hold.

"'There must be minimum wage laws in every state, for men as well as women. There must be higher than the rigid $13 minimum provided by the N.R.A. which never provided anything but a pittance and is utterly out of line with the rising cost of living.'"[72.]

The impartial investigation board "Was reported to have sent President Roosevelt an approval of the proposed 10 per cent slack in the work week of the Cotton Garment Industry.--- a cut from forty- to thirty-six hours for cotton garment workers with pay to remain at the forty hour rate."[73.]

The above report is substantiated by "An executive order establishing the thirty-six hour week----but weekly wages will be kept at their present figures and piece rates will be increased by 10 per cent." The order is "Effective December 1, and it affects two hundred thousand workers in four thousand plants in forty-two states."[74.]

A few days after the above order went into effect "The National Association of Shirt Manufacturers----unanimously adopted a resolution urging President Roosevelt to grant stay of his executive order----,"[75.] mentioned above.

But on Jan. 15, 1935 a letter was sent "To members of the industry---calling to their attention the fact that the changes in the administration of the code had no effect on the provisions thereof, which would continue to be enforced."[76.]

72. N.Y. Herald Tribune. Oct. 5, 1934. Page 35.
73. N.Y. Herald Tribune. Oct. 12, 1934. Page 37.
74. N.Y. Herald Tribune. Oct. 13, 1934. Page 1.
75. N.Y. Herald Tribune. Dec. 5, 1934. Page 35.
76. N.Y. Herald Tribune. Jan. 16, 1935. Page 33.

industry. The unions are too American-way to industrial peace. If some reconciliation is not given them, it will give radical leadership a hold.

"There must be minimum wage laws in every state, for men as well as women. There must be higher than the rigid NR minimum provided by the N.R.A. unless never provided anything but a pittance and is wrecking out of line with the rising cost of living."[72]

The imperial investigation board "has reported to President Roosevelt in support of the proposal to restrict slack in the wage work of the Cotton Textile Industry.---a cut from forty-to twenty-six hours for cotton garment workers with pay to remain at the forty hour wage."[73]

The above report is substantiated by "an executive order establishing the twenty-six hour week----but hourly wages will be kept at their present figures and piece work will be increased by 10 per cent." The order is "effective December 1, and it affects two hundred thousand workers in cotton garment plants in forty-two states."[74]

A few days after the above order went into effect "the National Association of Cotton Garment Manufacturers----unanimously adopted a resolution urging President Roosevelt to revoke his or his executive order----."[75] [illegible]

The outcome. If, then, a lowering the rate "to remove the industry---noting to their activities the fact even the changes in the minimum rates, or the code, is no cause for provisions thereof, which would [illegible] to be [illegible]."

72. N.Y. Herald Tribune. Oct. 9, 1933. [illegible]
73. N.Y. Herald Tribune. [illegible]
74. N.Y. Herald Tribune. Oct. 1, 1933. [illegible]
75. N.Y. Herald Tribune. [illegible]
76. N.Y. Herald Tribune. [illegible]

4. Motor Strike.

The fourth big strike was that which occurred in the Motor industry. Mark Sullivan writer for the Herald Tribune says, "No question of wages is involved.----The grievance lies almost wholly in an allegation that the automobile manufacturers maneuver to preserve company unions; that they prevent outside labor leaders from organizing independent unions, and prevent employees from joining them."[77.]

"William Collins, A.F. of L. representative,-----assured the men that the strike was not 'fundamentally for the better working conditions or pay increases but for the enforcement of Section 7(a) of the N.R.A. Code'".[78.]

While William Green, President of the A.F. of L. in expressing the same idea said, "'Will they (automobile manufacturers) permit automobile workers to enjoy the rights guaranteed them by the labor provisions of the automobile industrial code of fair practice? Shall the workers be permitted to organize their own union, bargain collectively, be represented by men of their own choosing, and do this free from intimidation or coercion of their employers? The industrial code of fair practice says they may do this!'"[79.]

The "merit" clause has been a bone of contention in the differences between the employers and the employees in the automobile industry. Labor never wanted it in, but the manufacturers got it in. At the time of the strike the employers brought up the subject by saying, "The American Federation of

77. N.Y. Herald Tribune. March 22, 1934. Page 2.
78. N.Y. Herald Tribune. March 19, 1934. Page 1.
79. N.Y. Herald Tribune. March 22, 1934. Page 2.

Labor seeks to make a union card, not merit, the sole condition of employment."[80]

Labor has brought up the question of eliminating the clause each time the code came up for renewal, but each time the code was extended with the clause still remaining. And on Nov. 2, 1934 William Green said that "The 'merit clause' which allows employers to hire or fire on a merit basis, should be eliminated,-----." and "That he 'will continue to fight for revision of the automobile code.'"[81] And on the last revision, toward the end of January, 1935, when the code was again renewed with but slight changes, John L. Lewis, president of the United Mine Workers, on Feb. 2, 1935 called Donald R. Richberg "'A traitor to Labor, at whose breast he was suckled,"----because of his recommendations to the President for extension of the Automobile Code."[82]

It is interesting to read what General Hugh S. Johnson in his articles entitled "The Blue Eagle from Egg to Earth", in the Saturday Evening Post, has to say about the "merit" clause. "The Code", he says, "contained the famous merit clause. To my mind it doesn't mean anything.----But the President was determined against even the appearance of doing so. I read this one hastily and said I would approve it. The Code was submitted on that condition. Later I saw that it was inconsistent with this phase of the President's policy, but I could not throw it out and keep my word. It is in there still. It has never raised a question of dispute, and it

80. N.Y. Herald Tribune. March 19, 1934. Page 2.
81. N.Y. Herald Tribune. Nov. 3, 1934. Page 1.
82. N.Y. Herald Tribune. Feb. 3, 1935. Page 1.

never will, because it is meaningless. But if I had it to do over again, it would not be there."[83]

There must have been a reason for the manufacturer's insisting on the clause; there must have been a reason for the President's not wanting the clause in this and other codes; there must be a reason for labor's fighting against its inclusion in the renewed codes; and there must be a reason for General Johnson's excluding the clause from the code if he were to do it again. The "merit" clause is a sort of a whip held over labor by the automobile manufacturers, and under which these manufacturers can justify many an action taken against labor.

On March 20, the President asked for a withholding of "strike action----until I can have conference in Washington in an effort to reconcile existing differences."[84] And on March 26, we get news that "Roosevelt averts strike, forces motor factions to take his peace plan." One of the terms being: "2. If there be more than one group, each bargaining committee shall have total membership pro rata to the number of men each member represents."[85]

This opened the way to proportional representation which has caused more trouble and has further confused the interpretations of Section 7(a). In an article in the Literary Digest entitled "Redrafted Wagner Bill at the Observation Post," it says, "But the old board (National Labor Board) has suffered all along from a lack of precise

83. The Saturday Evening Post. Feb. 2, 1935. Pages 18-19.
84. N.Y. Herald Tribune. March 21, 1934. Page 2.
85. N.Y. Herald Tribune. March 26, 1934. Page 1.

legislative authority. This became abundantly evident when the President intervened to avert the threatened automobile strike. The board had asserted the principle of 'majority rule' in disputes over employee representation. The automobile manufacturers refused to recognize it. They refused to recognize the power of the board to conduct a supervised election. On both counts they were victorious. The agreement with the President called for proportional representation based on 'secret' lists of union members.

"'In some respects therefore,' according to Doctor Feldman, 'the President's automobile settlement is held to have unsettled everything and the board has lost tremendously in prestige.'"[86.]

And at a later date when there seemed to be trouble brewing again in the automobile industry, Mr. Francis Biddle, Chairman of the National Industrial Labor Board said, "'The President has asked for an industrial truce,----I believe it is prefectly fair for employers, in keeping with the President's suggestion, to expect that their employees will call no strikes--if the employers obey Section 7(a). I consider it unfair and un-American for employers to disobey the law and then expect their employees to refrain from striking.'"[87.]

5. Atlantic and Pacific Chain Strike

The fifth strike was that involving the Meat Cutters' Union and the Retail Clerks' and Managers' Union and the Great Atlantic and Pacific Tea Company. The company "Declined to fight the two unions on closed-shop demands and announced

86. Litery Digest, 117:15. June 9, 1934
87. N.Y. Herald Tribune, Dec. 14, 1934. Page 12.

legislative authority. This became a powerful argument when the President intervened to avert the threatened automobile strike. The board had asserted the principle of "majority rule" in disputes over employee representation. The automobile manufacturers refused to recognize it. They refused to recognize the power of the board to conduct a representation election. On both counts they were violators. The agreement with the President called for proportional representation based on 'secret' lists of union members.

"In some respects therefore," according to Professor Wolman, "the President's agreement with the U.A.W. may have unsettled everybody, and the board has lost, we should say in practice."[5]

And at a later date when there seemed to be trouble brewing again in the automobile industry, Mr. Lewis Brown, Chairman of the National Industrial Recovery Board, said: "The President has asked for an industrial truce.----I believe it is perfectly fair for employers, in view of the President's suggestion, to expect that their employees will deal with them if the employers obey Section 7(a). I consider it unfair and un-American for employees to disrupt the job and then expect their employees to negotiate if a strike."[6]

5. Atlantic and Pacific Coast Strike

The fifth battle was the twelve-day joint 'Marine' Union and the Pacific Coast Longshoremen's Union on the Great Atlantic and Pacific Coast. The companies "failed to fight the two unions on equal terms, and accordingly

5. Labor Digest, 27:12. June 1934.
6. N.Y. Herald Tribune, Jan. 14, 1934. Jan. 15.

withdrawal of their business from"[88] Cleveland.

The strategy of the company was to make people believe the union was the aggressor by appealing to peoples' emotions, and telling how they had enjoyed their business relationship in the city, and of treating their employees fairly. They end the statement thusly; "We will not undertake to bring to Cleveland a large enough number of armed guards to protect our property in so many locations as it is transported through the streets.

"We are sorry to leave. Our going perhaps is of itself of no great importance----but the conditions prevailing here which make our going necessary are conditions which merit the serious consideration of every thoughtful person in Cleveland."[89]

On the other hand, the union had a different story to give the public. They charged "That the company was guilty of 'intimidating, coercing and dismissing employees for joining organizations of their own choosing, and therefore violating Section 7(a) of the N.R.A.

"That no violence has been resorted to by the union, but that the company in the face of peaceful picketing, resorted to the hiring of 100 gunmen and thugs to make trouble at their warehouse."[90]

On Nov. 2, 1934, a settlement was reached with an "Approval of the seven-point peace pact by the seven unions in controversy with the----company was telegraphed to the National Labor

88. N.Y. Herald Tribune, Oct. 28, 1934. Page 1.
89. N.Y. Herald Tribune, Oct. 28, 1934. Page 2.
90. Ibid. Page 2.

Relations Board in Washington tonight," while the "Approval of the peace terms by the board of the company is anticipated in New York tomorrow."[91] Everyone returned to work on Nov. 5, evidently none the worse for what they had gone through.

D. The General Strike

"A general strike", says Walter Lippmann, writer for the Herald Tribune, "Is in its very nature a strike not against certain employers or even against the whole class of employers but against the public and against public authority.

"The general strike, is therefore, a political weapon directed against the state rather than against special interests,---Once a general strike is in effect, the strikes are no longer in direct and primary conflict with their employers; they are in conflict with the mass of people and with organized government."[92]

The N.Y. Herald Tribune in an editorial on the "General Strike" says, in speaking of the affect of a general strike on organized labor, "As a blunderbuss fired in a mood of emotional exuberance it can accomplish nothing except---the demoralization or destruction of the union movement which resorts to it."[93]

Walter Lippmann, commenting further on "The General Strike," says that "----even the most democratic community in recognizing the right to strike will not recognize it as an unlimited and absolute right." And later in the same article says, "For by calling a general strike they force the government, which protects their right tostrike against political

91. N.Y. Herald Tribune. Nov. 3, 1934.
92. N.Y. Herald Tribune. July 17, 1934.
93. N.Y. Herald Tribune. July 16, 1934. Page 10.

employers and is neutral in their particular disputes to abandon its neutrality and break a strike. The call for a general strike is a compulsion upon all the neutral, innocent forces of the community and upon the authority of the government to oppose the strike."[94.]

So because of the above consequences we find Wm. Green, President of the A.F. of L., issuing a statement warning workers against participation in any thing of the kind. He said that the "Organized workers of San Francisco---made a grave mistake when they engaged in a sympathetic strike----. It is a dangerous experiment frought with grave consequences," and "No sympathetic strike of any consequence or possessed of any National significance was ever won. To the contrary, the record shows that all experiments of this kind have failed."[95.]

We find that a few days before the above warning had been given, William Green issued a statement denying the fact that the A.F. of L. backs the general strike.

"The strike was neither authorized nor ordered by the A.F. of L., Green said. It is entirely local and without national significance and its instigators must bear their own responsibility. 'If they lose, they lose all,' Green added."[96.]

"The National Association of Manufacturers intends to propose legislation this winter to ban general and sympathetic strikes.

"-----(It) suggested legislation to unionize industry by

94. N.Y. Herald Tribune. July 17, 1934.
95. The Boston Herald. July 21, 1934. Page 2.
96. The Boston Herald. July 19, 1934. Page 10.

placing it under a labor law similar to the railway labor act.

"The bill the association has in mind would be similar to the British Trade Dispute Act of 1927. The British Act, as analyzed by the association, would make strikes or lockouts illegal 'if the object is other than in furtherance of a trade dispute in the industry in which the strikers or employees locked out are engaged,' or if they were 'designed to coerce the government directly or by inflicting hardship on the community."[97]

97. The N.Y. Herald Tribune. Jan. 15, 1935. Page 11.

Chapter VII

ENFORCEMENT OF SECTION 7(a)

A. Enforcement of the Section is not Possible.

The most important part of a law or section of a law is its enforcement. Without effective compulsion, of one kind or another, a law becomes nothing but a mere scrap of paper. An act such as N.I.R.A. and its many sections especially Section 7(a), must have more than the courts and the police power of the nation to prosecute the violations of its provisions.

Strict enforcement of Section 7(a) is not possible, as it would demand a huge bureaucracy. American industry is so decentralized that it would be almost an impossibility to police it. Philip Cabot, writing for the "Yale Review" says, "We believe that in a democracy the less government the better, and we realize that we are already staggering under a burden of bureaucracy which threatens to crush us. The recovery program as a whole will result in an increase of bureaucracy beyond anything we have ever known."[1.]

A. J. Hettinger, Jr., who was for ten months a member of the staff of the division of research and planning of the

1. Yale Review, 23:15. Autumn, 1933.

National Recovery Administration, in an article on the N.R.A. written for the N. Y. Herald Tribune states among his forty-five propositions: "29.---------In extenuation, it can be stated that it is impossible to enforce a code that is utterly unsound from an economic viewpoint. Stated with the utmost seriousness, I doubt whether the entire police powers of the United States government could have enforced the N.R.A. Codes as a whole in any thorough-going fashion.

"33. That the N.R.A. has created huge super governments in its code authorities at a time when it is not in a position to guarantee proper use of these powers."[2.]

At a meeting of the American Society of Mechanical Engineers held in December, Dean Dexter S. Kimball of the College of Engineering at Cornell University, said that "It will require an immense police force to make any such enactment of the N.R.A. effective."[3.]

The big weakness in the enforcement of such a law is the act itself. David Lawrence of the United States News asks the questions, "Could the government really enforce such a licensing power? Was it constitutional? Would it not deprive citizens of their property if it forced them out of business?" Then goes on, "The lawyers pondered. Then they came upon the weakness in the statute itself. It contained this clause:

"Nothing in this Act, and no regulation thereunder, shall prevent an individual from pursuing the vocation of manual labor and selling or trading the products thereof; nor shall anything in this Act or regulation thereunder, prevent anyone from

2. N. Y. Herald Tribune, Sept. 9, 1934. Section II. Page 7.
3. N. Y. Herald Tribune, Dec. 7, 1934. Page 14.

National Recovery Administration, in an article on the N.R.A. written for the N. Y. Herald Tribune, states among the revelatory propositions: "22.--------In antecedents, it can be stated that it is impossible to enforce a code that is entirely unsound from an economic viewpoint. Stated with the utmost emphatoness, I doubt whether the entire police powers of the United States government would have enforced the N.R.A. code as a whole in any thoroughgoing fashion.

"23. That the N.R.A. was created by a super government in its code authorizing act, a fact which it is now in a position to guarantee proper use of these powers."

At a meeting of the American Society of Mechanical Engineers held in December, Dean Dexter S. Kimball of the College of Engineering at Cornell University, said that "it will require an immense police force to make any such enforcement of the N.R.A. effective."

The big weakness in the enforcement of such a law is the act itself. David Lawrence of the Evening Star asks some questions. "Could the government really enforce such a lawless court has it constitutional? Could it not question criminal of such property if it forced them out of business?" He goes on, "The Lawyers considered. Then into come upon the weakness in the statute itself. It contained this clause:

"Nothing in this act, and no regulation hereunder, shall prevent an individual from pursuing the vocation of manual labor and selling or trading the product thereof, nor shall anything in this act or regulation hereunder, prevent carrying the

[illegible]

[illegible] N. Y. Herald Tribune, Sep. 7, 1934, "Page 1."

marketing or trading the product of his farm."[4]

Rev. Edmund A. Walsh, Vice President of Georgetown University best expresses the helplessness of enforcement of the Industrial Recovery Act. Writing for "Commonweal" he says, "The fear of penalties, though they are severe and ready to hand, will not suffice. They will probably be but rarely invoked, as all men now know, none better than the government, that no law so far-reaching as the Industrial Recovery Act can be successfully enforced if it does not merit the support and approbation of enlightened public opinion. We tried that experiment once and found that legal compulsion unsupported by the National will is futile in a free democracy and begets only lawlessness, corruption, racketeering, disrespect for authority and a general weakening of moral value. -----It is the same national will, not the government, that will also determine the issue of the Industrial Recovery Act."[5]

Mrs. Pinchot, in an attack on N.R.A. policies at a group conference on unemployment, in Washington, D. C., declared "There was 'a deliberate and whosesale mocking' of Section 7(a) of the N.I.R.A. in Pennsylvania-------. 'the steel industry is openly fighting the government and, by ruthless dismissals of workers, when trying to organize, this section is made a farce.' She said E. T. Weir, of the Weirton Iron Works, 'has power enough to defy the United States government'. Although the National Labor Board 'has the power to hand down a decision

4. United States News, July, 15-22, 1933.
5. Commonweal, Oct. 13, 1933. Page 544.

in this case, it maintains a dramatic silence.' She said the same criticism applied in the Budd case. 'Until men like Weir and Budd can be made to obey the law,' she said, 'there is no use in enforcing the law on beauty parlors and Chinese laundries."[6]

Labor in its San Francisco convention last Fall thru Charles P. Howard, President of the International Typographical Union, charged that "The weakest link in the N.R.A. today is the failure of the government to secure compliance with Section 7(a)."[7]

The New York Herald Tribune in reporting the failure of the judicial department to prosecute the Houde Case, said, "The Federal government tonight sidestepped a court battle with industry-------when the Department of Justice announced it would not prosecute the Houde Engineering Corporation, of Buffalo---." And in a later paragraph said, "The Houde Corporation served notice on the labor board that it would refuse to obey the order and would fight it out in the courts."[8]

The difficulty to relate violations to Interstate and Foreign Commerce are two big drawbacks to enforcement of the Act. The Case of the Brooklyn-Manhattan Transit Corporation excellently shows the futility of the Federal government's attempt to enforce the provisions of Section 7(a) on a company doing a purely intra-state commerce. Gerhard M. Dahl, Chairman of the board of directors of the above company told the

6. N. Y. Herald Tribune, March 1, 1934. Page 18.
7. N. Y. Herald Tribune, Oct. 11, 1934. Page 6.
8. N. Y. Herald Tribune, Oct. 12, 1934. Page 2.

government authorities, "We certainly are not engaged in interstate commerce, and I have been advised by our attorneys that the N.R.A., therefore, does not have jurisdiction over the situation."[9] The Federal government is, therefore, helpless in such a situation unless they can find evidence, which brings them out of the jurisdiction of New York State and under Federal supervision. The other possible way is to prosecute them on "baby" N.R.A. laws passed by the individual states.

Mark Sullivan in writing for the N.Y. Herald Tribune in commenting on the above said, "When the N.R.A. Statute was being written for Congress to enact----the New Deal lawyers knew that the only part of business that Congress can legislate about is that part which crosses states lines. Congress can pass no law affecting 'intra state' business:-------.

"The New Dealers wrote into several of their statutues ingenious phrases. They were to the effect that the N.R.A. and other legislation covers all transactions 'affecting' interstate commerce or 'in the current of' interstate commerce. Their hope was that the courts would hold that every kind of business even if done wholly within a state, nevertheless 'affects' interstate commerce, or is 'in the current of' interstate commerce.

"At the same time, it is fairly clear that the courts will not say that black is white or that inside is outside or that 'intra-state' is 'interstate.'"[10]

Another question which hinders enforcement is the constitutionality of the act. I have already dealt on that point in

9. N.Y. Herald Tribune, Nov. 19, 1934. Page 1.
10. N.Y. Herald Tribune, Jan. 11, 1934. Page 21.

Chapter II. Both the government and labor are fearful to force any issue on the question of constitutionality--the government, because it fears the consequences if the act were thrown out, while labor is fearful "That a constitutional test of the N.R.A. might result in invalidation of the law, allowing corporate combines to remain in existence depriving labor of what rights it now has."[11.]

The Ames Baldwin Wyoming Company of Parkersburg, W. Va., in their dispute over "An order by the labor board for a secret ballot to choose collective bargaining representatives" asserted in their petition that "The measures 'are void and unconstitutional in that they purport to authorize said board to assume jurisdiction over matters not subject to the laws of the United States and in that they contravene the fifth and tenth amendments.'"[1]

Continuing on the above subject the "United States Law Review" in an editorial stated, "While there have been numerous examples of the unusual extension of governmental authority in such periods of great emergency as that of war, the United States Supreme Court has repeatedly, and with emphasis, asserted that even the existence of a state of war did not remove or change the limitations upon legislative authority imposed by the Constitution."[13.]

General Hugh S. Johnson in the articles he is writing for "The Saturday Evening Post" on "The Blue Eagle from Egg to Earth" says, "Public conscience and opinion are still all there

11. N. Y. Herald Tribune, Oct. 11, 1934. Page 6.
12. N. Y. Herald Tribune, Sept. 21, 1934. Page 10.
13. United States Law Review, 57:386, August, 1933.

is to support N.R.A., but I think they are enough."[14] And in a later issue said, "Like the Draft Act, the whole law is written to depend on popular support rather than salutory compulsion. That is the very basis of N.I.R.A. and N.R.A. It is what is being forgotten today. It must not be forgotten unless N.R.A. is to fail."[15]

General Johnson realized that it takes persistent effort to put things over. He knows the psychology of the masses for in a later issue of the "Post" he says, "Nobody knows better than I that the 1933 autumn enthusiasm for the Blue Eagle lapsed for two reasons--first, because compliance was not enforced vigorously enough; second, because no Blue Eagle drives were instituted."[16] It takes education; it takes a great deal of work. It takes a great deal of time; and it takes a great deal of diplomacy to put such a thing over, but in the end it is worth the effort.

Many states are unwilling to aid in the enforcement of the N.R.A. provisions by passing state acts. Pennsylvania is one of those states for says Mrs. Pinchot, wife of the Governor of the state, "In Pennsylvania, unfortunately, as I have seen it, the N.R.A. is more honored in the breach than in the observance."[17]

The A. F. of L. in a survey completed in November, 1934 found violations increasing from coast to coast. "The survey

14. The Saturday Evening Post, Jan. 19, 1935. Page 6.
15. The Saturday Evening Post, Jan. 26, 1935. Page 85.
16. The Saturday Evening Post, Feb. 2, 1935. Page 88.
17. N. Y. Herald Tribune, April, 8, 1934. Page 22.

consisted of reports from seventy-one organizers in twenty-nine states. Forty-three found increasing or widespread violation of codes in their areas. Only seven reported violations on the wane. Several said the N.R.A. Blue Eagle no longer drew the respect of buyers in their districts."[18]

In this report, the A. F. of L. "Attributed the increase in violations to:

"'(1) The fact that the code authorities themselves are not in favor of the codes and hence do not bother to see them enforced.'

"'(2) The employees, particularly in unorganized plants are afraid of losing their jobs for reporting any infractions of the codes.'

"'(3) The failure of the Administration itself to command the respect of business, i.e., restoring the Blue Eagles to companies who have violated the codes, without prosecuting the cases.'"[19]

Walter Lippmann commenting on "The Labor Problem under the New Deal" says that "The result" of putting "all industry under codes as rapidly as possible" "was a mass of codes, some of them really sought by industry, some taken under pressure of mass psychology-----. Moreover, because there was such an element of compulsion from Washington, at least a large minority of business men did not look upon the codes as privileges for which they were willing to pay a price---------having imposed

18. N. Y. Herald Tribune, Nov. 9, 1934. Page 6.
19. Ibid. Page 6.

or, what amounts to the same thing, having appeared to impose the codes,--------."[20]

Mark Sullivan on the subject of reform says that "As long ago as last April, Mr. Walter Lippmann said that had we not taken so much reform 'we should have a more substantial and a much assured recovery.'"[21]

Mark Sullivan has accused the President many a time of subordinating recovery to reform. The last time was on June 20, 1934 in his article "Capital urged to make Peace with Business." In this article he says, "It is not necessary for Mr. Roosevelt to abandon his program for social reform.----- Here lies one of the major mistakes the New Dealers have made. They found the country prostrate; and they insisted on their reforms because they feared that if the country was well it would not accept the reforms.----. It would have been better had Mr. Roosevelt brought recovery first and let reform wait."[22]

B. Problems Met by Labor in Aiding Enforcement.

There are other problems in the enforcement of Section 7(a) besides government and public apathy. The first of these is competition from sources outside of the state where labor is employed. Many states as shown above allow wholesale breaking of the Codes. State laws are not uniform, and for that reason enforcement of N.R.A. differs in the various states.

The harm that cheap labor in one city or state can do in affecting labor in other cities or states, is best expressed by General Hugh S. Johnson in his articles for The Saturday Evening Post on "The Blue Eagle from Egg to Earth." He says,

20. N. Y. Herald Tribune, June 7, 1934. Page 21.
21. N. Y. Herald Tribune, Oct. 10, 1934. Page 8.
22. N. Y. Herald Tribune, Jan. 20, 1935. Section II. Page 2.

"One of the astonishing disclosures by the N.R.A. hearings is the extent to which degraded labor conditions in one locality reach out through competition to degrade the conditions in another industry or locality.

"To illustrate the same principle as between groups of an industry rather than localities: Somebody starts a sweat-shop operation in the metropolitan area--say, in the Connecticut Valley. His cheap goods begin to flood into New York. The legitimate manufacturer is confronted with a choice between following the same lead or going out of business.

"As has been explained, the general low wage scales in certain whole groups of states, and especially the wages of Negroes in some industries, had spread their effect like a great grease stain over large areas of the map of the United States, degrading wages and living conditions of labor in other regions far removed."[23]

To what extent cheap labor in one locality affects higher priced labor in another locality is seen in the case of the silk workers of New Jersey. The manufacturers said "That due to the keen competition and the low prices being offered by the New York Converters they found it necessary to cut wages from a quarter to a half cent a yard, otherwise they could not procure the orders which would go to the Pennsylvania area."[24]

Elmer F. Andrews, State Industrial Commissioner of New York, in recommending the five day week said that "Much of the employers' opposition to such a law would probably be based

23. The Saturday Evening Post. Feb. 2, 1935. Page 85.
24. N. Y. Herald Tribune, Oct. 10, 1934. Page 33.

upon the contention that other states, failing to enact similar legislation, would offer unfair competition to New York employers."[25]

The lack of enforcement by the states is shown by a survey made by the A. F. of L. completed during November, 1934. The report of the various states is as follows:

1. "Three of four Alabama organizers reported violations to be increasing. The fourth said he could note no difference, but found 'chiselling' particularly bad in the lumber industry and among merchants.'
2. "Three of four in California also reported increases.
3. "Both reporting Florida agents mentioned increases.
4. "In Illinois three said violations were decreasing; three others reported increases.
5. "The three Indiana organizers who mentioned violations remarked they were on the increase, as did two representatives in Iowa and one each in Kentucky and Kansas.
6. "Michigan and Minnesota organizers reported increases---.
7. "Two from New York and one from New Jersey reported increases.
8. "Two from Oklahoma found increases as did two from Pennsylvania. Organizers in South Dakota, Texas, Utah, Washington and West Virginia were unanimous in reporting increases. One organizer from Wisconsin likewise found increases."[26]

Outside competition in many cases comes from cheap labor in United States possessions and foreign labor.

25. N. Y. Herald Tribune, Oct. 28, 1934. Page 16.
26. N. Y. Herald Tribune, Nov. 9, 1934.

On Dec. 19, 1933, "General Johnson----made public an opinion by Attorney General Homer S. Cummings in which he ruled that the Philippine Islands are not within the scope of the National Recovery Act in so far as it prescribes Code formulation and enforcement."[27]

Is it any wonder then that we read that "Cheap labor in Puerto Rico, the Philippines, and other American insular possessions constitute a serious threat to wage levels in New York City's lingerie and underwear industry-----.

"In the manufacture of rayon underwear----manufacturers supplying low priced chain stores were having their cutting done in this country, shipping their uncompleted garments to Puerto Rice and the Philippines, and bringing the goods back finished with hand embroidery at prices which no manufacturer here could hope to meet.

"Mr. Whalen said he considered the free importation of goods from the American islands such a threat to American wage levels that the National Administration would have to do something about it if the codes providing living wages here were to be made workable."[28]

Professor James T. Shotwell, of Columbia University in discussing "The N.R.A. and the Tariff," feels "That labor conditions should be made one of the basic factors in tariff bargaining; that products made under specified labor conditions--- should be given preferential treatment, while articles made

27. N. Y. Herald Tribune. Dec. 19, 1933. Page 8.
28. N. Y. Herald Tribune, Sept. 20, 1933. Page 24.

under oppressive or exploitative conditions be subjected to higher duties and imposition, (so as to) prevent sweated labor of one country from dumping its product upon another country with high class standards of living."[29.]

Manufacturers attitude toward labor's participation in management has also been a problem in enforcing the act. The employers reaction to the unionization of labor, to collective bargaining, to the "majority" rule, etc., has already been developed in another chapter. But the development of the company union has shown industry's attitude more than any other one thing. The manufacturers felt that if labor must participate it might as well be done by a union that is controlled, to a great extent,by the management itself. These employers have the conviction "That the trade unions are going beyond the limits of the law, are trying to impose a monopolistic hand on American industry, and are using violence to achieve their aim; also a feeling that most of the newly created labor boards are biased in favor of trade unions and are rendering decisions in their favor, but in violation of American legal and economic principles."[30.]

The open defiance of the National Association of Manufacturers to the majority rule decision of the Labor Board is a good example of the attitude of employers toward organized labor's participation in collective bargaining and management.[31.]

The employers sometimes purposely confuse the real issues of a case in order to bar effective enforcement of Section 7(a).

29. N. Y. Herald Tribune. Sept. 20, 1933. Page 24.
30. The N. Y. Times. Nov. 4, 1934. Section 8, Page 3.
31. N. Y. Herald Tribune, Sept. 13, 1934. Page 11.

Dean S. Jennings, a chief rewrite man for "The San Francisco Call Bulletin" was compelled to resign his position because of his activities in promoting the American Newspaper Guild, a newspaper union. The case finally came before the National Labor Relations Board for jurisdiction, and a decision was handed down in favor of Mr. Jennings. "The decision brought declarations from Howard Davis, President of the American Newspaper Publishers' Association that the freedom of the press reservation had been nullified,"[32] and also a threat from Mr. Hearst's Counsel that there would be a "withdrawal from the code if jurisdiction in the case were not transferred from the National Labor Relations Board to the Newspaper Industrial Board."[33]

The Newspaper Industrial Board is composed of four publishers and four employees so is always at a deadlock in deciding important cases. The Guild, therefore, did not consider it a suitable agency to decide the Jennings Case. Besides, this Newspaper Board was not functioning at the time the present case arose. Because of these reasons the Industrial Relations Board, which considers itself "not merely a tribunal for the disposition of 7A complaints arising in industries having no special industrial board but, what is more important, it is to serve as a coordinating body charged to promote uniformity of administration and interpretation in the various boards and agencies dealing with 7A cases,"[34] gave its decision and was well on its way to enforce its demands.

32. The Literary Digest Dec. 15, 1934. Page 5.
33. Ibid. Page 5.
34. The Literary Digest Dec. 22, 1934. Page 6.

Dean E. Jennings, a staff reporter and for "The San Francisco Call Bulletin" was compelled to resign his position because of his activities in promoting the American Newspaper Guild, a newspaper union. The case finally came before the National Labor Relations Board for jurisdiction, and a decision was handed down in favor of Mr. Jennings. The decision brought denunciations from Howard Davis, President of the American Newspaper Publishers' Association that the freedom of the press reservation had been violated,[32] and also a threat from Mr. Hearst's counsel that there would be a "withdrawal from the code if jurisdiction in the case were not the referred from the National Labor Relations Board to the Newspaper Industrial Board."[33]

The Newspaper Industrial Board is composed of four publishers and four employees so is always at a deadlock in resolving important cases. The Guild, therefore, did not consider it a suitable agency to decide the Jennings case. Besides, this Newspaper Board was not functioning at the time the Jennings case arose. Because of these reasons the Industrial Relations Board, which concludes itself "not merely a tribunal for the disposition of TA associate matters in industries having no special industrial board but, what is more important, it is to serve as a conciliating body designed to promote uniformity of administration and interpretation in the various bureaus and especially dealing with TA cases,"[34] gave the decision the Guild was call on its war to enforce its demands.

32. The Literary Digest, Sep. 19, 1936, Page 6.
33. Ibid. Page 6.
34. The Literary Digest, Sep. 26, 1936, Page 6.

The decision was handed down on December 3, temporarily suspended at the request of Donald Richberg and Blackwell Smith, acting chief counsel of the N.R.A., and later reaffirmed on December 17 with a few pertinent remarks added to the original decision. The Board ordered that "Unless within ten days from the date of this decision the San Francisco Call-Bulletin notifies this Board in writing that it has offered Dean S. Jenning's reinstatement to his former position, the case will be transmitted to the Compliance Division of the National Recovery Administration and to the enforcement agencies of the federal government for appropriate action."[35.]

Because of the pressure put on the N.R.A. and the President by the Newspaper Publishers' Association, President Roosevelt last week in a special letter to Chairman Biddle "informed the National Relations Board that it had no authority to hear labor disputes, even on appeal, in any industry whose code provides for the 'final adjudication' of such controversies by tribunals set up within the industry."[36.]

Since the Newspaper Industrial Board "has been unable so far to agree on any procedure for the enforcement of collective bargaining between the publishers and the Guild," and "under authority of an Act of Congress--Public Resolution 44----- specifically empowers the Labor Board to investigate 'any controversies arising under Section 7(a),'"[37.] it is only proper that the National Labor Relations Board should decide this case.

35. The New Republic. Jan. 9, 1935. Page 250.
36. The New Republic. Feb. 6, 1935. Page 348.
37. The New Republic. Nov. 28, 1934. Page 72.

Besides, this tribunal was set up as a place where workers could come when they felt they had not received fair treatment in the regional or industrial boards. It is an impartial body and can render more equitable decisions.

The President's surrender to the publishers "has, in the first place stripped the National Labor Relations Board of its independent status--and independence that he himself promised it last June--and, secondly, he has denied editorial and other employees the right to have their grievances heard by an impartial tribunal.

"The first of these precedents is clearly the more serious. It not merely circumscribes the usefulness of the Labor Relations Board----but it confirms the fear that the President will warp his labor policy to suit those business groups that can apply the greatest pressure."[38]

To use "freedom of the press" as the issue, in this case, is most absurd since "discrimination for union activities is the real issue." Is it any wonder that further down we read, "The (the newspaper publishers) are urging a fight not in behalf of a free press but against unionization."[39] Such meddling of the government with the decisions of this impartial and independent board cannot help but rush the death of Section 7(a), which this board has striven so hard to enforce. It will then leave labor with only one alternative as a means to justice--the strike.

38. The New Republic. Feb. 6, 1935. Page 348.
39. The Nation. Dec. 19, 1934. Page 700.

C. Attempts at Enforcement by National Boards.

In attempts at enforcement of Section 7(a) by the National Labor Boards, there has been one grave handicap--the conflicting interpretations of the law, not so much by labor itself or industry, but by the government through its N.R.A. Administrator, its General Counsel, and by the President himself. The government never had a clean cut policy in regard to labor. Rev. F. Fay, Murphy, S. J., Dean of Sociology at Fordham University believes "That labor has either been deceived, beguiled or sold out under the Provisions of Section 7(a)-----. I must place a certain amount of responsibility for the partial failure of the N.R.A. to the evasiveness and lack of conviction on the part of the Administration."[40.]

To quote Mark Sullivan again on the question of government policy on the labor problem, he says, "The other possible remedy available to Washington would be an exact and authoritative interpretation of just what the collective bargaining clause of N.R.A. means. President Roosevelt has usually frowned upon attempts to interpret this section. He has occasionally taken refuge in saying that the labor clause means what it says and that there can be no interpretations until the courts make one. On one occasion, former N.R.A. Administrator Hugh Johnson and Mr. Donald Richberg issued an interpretation of the N.R.A. labor clause and Mr. Roosevelt had a manner of reproving them for doing so. On another occasion Mr. Roosevelt himself made an interpretation in the shape of a compromise he arranged between

40. N. Y. Herald Tribune, Aug. 30, 1934. Page 9.

employers and workers in the automobile industry last March. Subsequently, in another case this decision by the President was overruled and a different precedent established by the National Relation Board which Mr. Roosevelt himself appointed."[41]

In the A. F. of L. convention in San Francisco, "The Administration was assailed for asserted failure-----to enforce code regulations and governmental 'weakness' in interpretation and enforcement of Section 7(a) of N.R.A."[42]

The National Labor Board has held an enviable reputation with organized labor because every case handled by it has sustained labor. William Green, President of the A. F. of L. as far back as September, 1933 made his feeling known on the above subject by remarking "'In every case' handled by the National Labor Board, which is headed by Senator Robert F. Wagner, Democrat of New York, 'labor has been sustained.'"[43]

The statistics of what the Board has done shows some very good result. On June 10, 1934 a report issued giving a record to June 1, gives "More than 2,000,000 workers directly affected by cases they had handled, about 1,750,000 have returned to work, kept at work, or had other disputes adjusted.

"'There was a total of 3,755 cases of which 3,061, or 80 per cent were settled by the boards,-----. The boards mediated 1,323 strikes involving 870,000 workers----. Three quarters of these strikes were settled. In addition, 497 strikes were averted. Thus the boards in strike situtations

41. N. Y. Herald Tribune, Oct. 31, 1934. Page 2.
42. N. Y. Herald Tribune, Oct. 11, 1934. Page 6.
43. N. Y. Herald Tribune, Sept. 20, 1933. Page 7.

alone returned to work or kept at work 1,270,000 workers directly involved or about 1,500,000.---------'

"'Of the 3,755 cases, the primary cause of complaint in 2,655 cases was alleged violation of Section 7(a), the collective bargaining provision of the recovery law.'"[44.]

The National Labor Relations Board has issued five reports since its creation with the following results.

1. Release #126, Tuesday, Aug. 14, 1934.--Time was "Consumed in disposing of the 92 cases which were pending before the old National Labor Board."
2. Release #160, September 26, 1934.--"A total of 51 such cases have been acted upon during the month."
3. Release #187, Oct. 29, 1934--"A total of 57 cases have been acted upon during the month."
4. Release #232, Dec. 18, 1934--"A total of 49 such cases have been acted upon during the month."
5. Release #250, Jan. 10, 1935--"A total of 56 cases involving alleged violations of Section 7(a) have been acted upon during the month."[45.]

Besides the above monthly reports made by the Board to the President on the "Disposition of cases involving alleged violations of Section 7(a)," and other matters, the Board also issues "immediate" releases and releases "For publication" each time it makes a decision.

Besides the cases referred to the National Labor Relations Board, there are many cases which come up but are handled and

44. N.Y. Herald Tribune, June 11, 1934. Page 4.
45. Releases of the National Labor Relations Board on the above dates, Washington, D.C. Page 1 in each case.

adjusted by the Regional Labor Boards without ever reaching the National Board.

Only two releases issued by the National Board contain results accomplished by the Regional Boards, but both reports are summarized in Release #187 issued Oct. 29, 1934. The results are as follows:

"In our last monthly report we pointed out that from August 6, 1933 to July 1, 1934, 4,447 cases were handled by the Regional Labor Boards, involving over a million and a half workers; that 2,633 of these cases were settled by the Boards through agreements; and that, in addition, 1,258 were results as a result of decisions or recommendations,----. During the months of August and September, 1934, 1,477 cases were handled by the Regional Boards involving over 600,000 workers; 409 of these cases were settled by the Board through agreement, and 146 as a result of decisions or recommendations, while many of the remainder will be amicably disposed of later on. These bare statistics eloquently testify to the value of the work performed by the Boards."[46]

It seems to the writer that serious attempts will have to be made to enforce Section 7(a) or there will be only one untimatum left--"If the President will not or cannot enforce Section 7(a), perhaps labor can, and will."[47]

46. Immediate Release #187, Oct. 29, 1934. National Labor Relations Board, Washington, D. C. Page 2.
47. The Nation 139:60 July 18, 1934 "Can Labor Enforce Section 7(a)?"

Chapter VIII

STATE RECOVERY ACTS

A. The Following Have Sections in them Affecting Labor.

In order to make N.I.R.A. more effective by having it applicable to industries carrying on only intra-state trade, as well as those carrying on inter-state trade, General Hugh Johnson, according to Mark Sullivan of the New York Herald Tribune, "Started a campaign to get all the states to adopt 'baby' N.R.A. laws, which should be state duplicates of the National N.R.A. The state N.R.A. added to the National one would successfully cover every kind of business transaction.

"General Johnson persuaded some thirteen states to adopt 'baby' N.R.A.'s."[1]

We have a record of twelve of the thirteen states which have "Statutes passed during 1933 designed to supplement the National Industrial Recovery Act. They are as follows:[2]

1. California: "Act to provide state enforcement of N.R.A. Codes." This act was approved by the Governor, Aug. 4, 1933. It is Section 2, paragraph three of this act which corresponds to Section 7(a) of the National N.R.A.

1. N.Y. Herald Tribune, Jan. 11, 1935. Page 21.
2. What follows, unless otherwise stated, is based on "A Handbook of N.R.A." By Mayers, 2nd Edition. Federal Codes Inc., N.Y., 1934. Pages 397-436.

Another act was passed in this state--"Act providing for state codes of fair competition". This act which corresponds most closely to the National N.R.A., was approved on Aug. 4, 1933, and has Section 4 paragraph one worded like Section 7(a) of the National Act.

2. Colorado: "Act suspending blackist and boycott laws." This act was approved Aug. 18, 1933, and was 'for the purpose of cooperating with and assisting the National Government in promoting its national industrial recovery program."

A second law passed by this state is an "Act suspending anti-trust laws," and is for the same purpose as the above. It was approved Aug. 11, 1933.

3. Kansas: "Act making N.I.R.A. and A.A.A. defenses for action for violation of anti-trust laws." It was approved Nov. 20, 1933.

4. Massachusetts: "Act suspending law prohibiting employment after six o'clock." It was approved July 22, 1933. It was "Declared to be an emergency law necessary for the immediate preservation of the public health, safety and convenience."

5. New Jersey: "Act penalizing improper display of N.R.A. emblem, and non-compliance with N.R.A. Codes and agreements." This act approved Aug. 31, 1933, is "To promote and further the effective administration of the National Industrial Recovery Act of the United States, and to aid in the effectuation of the President's reemployment agreements-----."

There was also an act passed "Providing for state codes

of fair competition, and state enforcement of N.R.A. Codes." This act approved Sept. 5, 1933, has Section four which is like Section 7(a) of the National Act, and "May be cited as the 'New Jersey Industrial Recovery Act.'"

6. New York: "Act providing for state enforcement of N.R.A. Codes," "became a law August 26, 1933 with the approval of the Governor." Paragraph three of this act gives certain rights to labor.

The other law passed by the State of New York is an "Act permitting utilization of state officers and employees by President for N.R.A. service." This act "Became a law August 26, 1933 with the approval of the Governor."

7. Ohio: "Act providing for state codes of fair competition and state enforcement of N.R.A. Codes." It was approved July 12, 1933. Section 4 of this act has provisions in it similar to those found in Section 7(a) of the National N.I.R.A.

8. Texas: "Act making N.I.R.A. a defense to action for violation of anti-trust laws." It was approved Oct. 23, 1933 and became a law immediately.

9. Utah: "Act providing for state codes of fair competition." Section 5 of this act is practically the same as Section 7(a) of the N.I.R.A. It was approved July 31, 1933.

10. Virginia: "Act to provide state enforcement of N.R.A. Codes and permitting utilization of state officers by President." This act was approved Sept. 14, 1933, and as will be seen is two acts in one. The act is known as the State Industrial Recovery Act.

11. Wisconsin: "Act providing for state codes of fair competition." This law which was approved July 25, 1933, has Section 2 in it that is like Section 7(a) Parts 1 and 2 of the N.I.R.A. It was approved July 25, 1933.

12. Wyoming: "Act to provide state enforcement of N.R.A. Codes and permitting utilization of state officers by President." This is another act that has two in one. It was approved Dec. 20, 1933 and may be known as the State Industrial Recovery Act.

B. Supplementary Information on the State Recovery Acts.

Most of the above acts give powers to the Governor of the state that the N.I.R.A. gives to the President of the United States.

Since these acts are supplementary to the N.I.R.A., and therefore emergency measures, they bear the same expiration date as the National Act, June 16, 1935, unless otherwise disposed of or renewed.

The reason why more states did not pass "baby" N.R.A. laws is, according to Mark Sullivan, due to the fact that "By the time he (General Johnson) had got that far (persuading thirteen states to adopt "baby" N.R.A. laws), the whole N.R.A. began to lose esteem. State legislatures became reluctant to duplicate it. Governors became reluctant to recommend it.----Quite certainly any hope of getting all the forty eight states to adopt "baby" N.R.A. statutes is ended."[3]

Of the above states, New Jersey alone has "Abolished the State Recovery Administration by proclamation." This was

3. N.Y. Herald Tribune, Jan. 11, 1935. Page 21.

11. Wisconsin: "Act providing for state codes of fair competition." This law which was approved July 26, 1933, has Section 2 in it that is like Section 7(a) Parts 1 and 2 of the N.I.R.A. It was approved July 26, 1933.

12. Wyoming: "Act to provide state enforcement of N.R.A. Codes and penalizing utilization of state officers by President." This is another act that has two in one. It was approved Dec. 20, 1933 and may be known as the State Industrial Recovery Act.

B. Supplementary Information on the State Recovery Acts.

Most of the above acts give powers to the governor of the state that the N.I.R.A. gives to the President of the United States.

Since these acts are supplementary to the N.I.R.A., and therefore emergency measures, they have the same expiration date as the National Act, June 16, 1935, unless otherwise disposed of or renewed.

The reason why more states did not pass "baby" N.I.R.A. laws is, according to Kent Sullivan, due to the fact that "by the time so (several hundred) had got bogged down, supporting-minded states stopped to wait." N.I.R.A. laws, the whole N.I.R.A. began to lose steam. State legislators became reluctant to duplicate it. Governors became reluctant to recommend it.----Quite certainly any hope of getting all the forty eight states to adopt "baby" N.I.R.A. acts is ended.

Of the above states, the Denver alone has "adopted the state Recovery Administration by proclamation." Quote was S. N.Y. Herald Tribune, Jan. 11, 1934. Page 21.

done on Jan. 7, 1935 by Acting Governor Clifford R. Powell, who said "It was driving business out of the state," and "That (it) was costing about twenty industries $750,000 a year."[4] Altho Mr. Powell did it on his own initiative, Governor-elect Harold G. Hoffman heartily approved the Acting Governor's act.

Whether other states will follow suit yet remains to be seen.

4. N.Y. Herald Tribune, Jan. 8, 1935. Page 1.

Chapter IX

CONCLUSIONS

A. Labor's Attitude Toward the Law.

From the foregoing chapters one may draw many conclusions, but one which is certain is that labor's attitude toward laws which have been passed for their benefit, has been no different than that reported by the President's Commission on Industrial Relations in 1916. The findings of this governmental body are expressed in the following paragraph:

"No testimony presented to the Commission has left a deeper impression than the evidence that there exists among the workers an almost universal conviction that they, both as individuals and as a class, are denied justice in the enactment, adjudication, and administration of law; that the very instruments of democracy are often used to oppress them and to place obstacles in the way of their movement toward economic, industrial, and political freedom and justice. Many witnesses speaking for millions of workers as well as for themselves, have asserted with the greatest earnestness that the mass of the workers are convinced that laws are necessary for their protection against the most grievous wrongs cannot be passed except after long and exhausting struggles. That such beneficient measures as become laws

are largely nulified by the unwarranted decisions of the courts; that the laws which stand upon the statute books are not equally enforced; and that the whole machinery of government has frequently been placed at the disposal of the employers for the oppression of the workers; that the constitution itself has been ignored in the interests of the employers; and that constitutional guarantees erected primarily for the protection of the workers have been denied to them and used as a cloak for the misdeeds of corporations."[1.]

Strange how history repeats itself; strange that the same conditions should exist under the N.I.R.A. as are mentioned above; strange that the act which was to be labor's "Magna Carta" and a "Charter of Rights" was eventually to be a "Washington Run-Around" and "A tool in the hands of big business." The attitude of labor toward the N.R.A. is one of dissatisfaction and distrust. This feeling is shown by the rise in the number of strikes on one hand, and the recent labor-administration rift on the other. Labor is accusing the Administration of siding with industry on the 30 hour week, the "merit" clause and the automobile Code extension, relief wages, enforcement and interpretations of Section 7(a), and in strike settlements, which in appearance seem to benefit labor, eventually turn out to their detriment.

On the other hand the American Federation of Labor in a joint statement, issued after a conference with the President at the White House on February 11, 1935, states that "The

1. Labor Economics and Labor Problems, By Dale Yoder. McGraw Hill Book Co. Inc., N.Y., 1933. Page 507

criticisms which we have leveled against the National Recovery Administration have not been at the principles of the Act, but have been directed toward errors in administration, machinery of administration, procedure followed and interpretations made by those clothed with administrative authority."[2]

But after all, what makes a law but the very things which the A.F. of L. condemns in the above paragraph? It is only in their interpretation and enforcement that laws are what they are. In one sense, then, the A.F. of L. is condemning the law as it exists and wants amendments and changes put through so that there will be no loopholes for recalcitrant employers.

B. What the Act Has Accomplished for Labor.

In spite of labor's attitude toward the N.R.A.--its interpretations and administration--has the Act itself accomplished any good for labor?

We must admit that organized labor has received many permanent benefits, the first of which is the impetus to force their claims till won. It has had the realization that, do or die, they will fight to the last inch for what Section 7(a) has bestowed on them. Experience has taught them that laws alone will not help. They know that force alone will not give them their demands, therefore organized labor will educate the masses; it will reorganize its organization; it will make demands for more security in wages, hours, and conditions; it will in devious ways strive to attain its

2. N.Y. Herald Tribune, Feb. 12, 1935.

claims which they feel are inherent. Whichever way they may have to go about it, they will not give up until they have gotten where they want to go. The staid old labor union has had to change its tactics, but if it hadn't, the old type union would have been a relic of the past.

Another permanent benefit for labor has been that organized labor, a minority group representing only 10 per cent of all workers, has been able to influence many more millions than are members of the unions. Capital, in spite of its seeming nonchalance toward organized labor, fears it. One of the indications has been the devious inventions used by capital in fighting the unions--the company union, full page advertisements and publicity given "union monopoly plots", yellow dog contracts, refusal to recognize the union, and other ways to cripple the organized labor groups. Capital has had to fight fire with fire; they have been forced to realize the strength of organized labor.

A third important permanent benefit brought about by the N.R.A. is that of forcing a new social revolution. We have been aware of unemployment, sweat shops, child labor, long hours and bad working conditions, but we never went beyond the recognition stage. Today we are making some attempt to improve conditions along the above lines. At least each code recognized the conditions which existed, and has made some provision for alleviating them.

Everyone is more conscious of our economic problems and is discussing them. Education has increased along economic

lines which will in itself help to force reforms. We have found ways of improving and increasing production; we have found ways of making more money, but, we have not found ways of making capital, labor, and government work together for the common good. These reforms proposed by the N.I.R.A. must be put into operation at once and not after prosperity has had a chance to come around the corner. Reforms should come with progress. Not to have progress in manufacturing, transportation, and communication so far outstrip progress in social reforms that society has to live in 17th century consumption economy in the midst of 20th century production economy.

In other words, human welfare is more important than economic recovery. Not that we do not need economic recovery, for that is very important, but we allow business to recover at the expense of human suffering. The old period of laissez-faire is passed. No more should a man be allowed to pay starvation wages in order to make a business show blue rather than red.

Dr. William M. Leiserson, Chairman of the National Mediation Board, in defending the New Deal at the National Business Conference at Babson Park last September, 1934 said, "The New Deal means that the liberty which some people have enjoyed to oppress other people is to be taken away. The privileges which the Old Deal gave to powerful employers, privileged corporations to deny wage earners and salaried people rights that are inherent in American citizenship; this liberty the New Deal proposes to restrain."[3]

3. N.Y. Herald Tribune, Sept. 15, 1935. Page 35.

Donald Richberg said, in a radio address under the auspices of the American Bar Association, "From the history of other nations we must have known that our political institutions were in deadly peril. Political freedom and security depend on economic freedom and security. To continue to be a self-governing people we must continue to be a self-supporting people. If an economic system fails to provide an assured livelihood for the masses of the people, it will not support a government of the people."[4]

More general participation of labor in management is one of the aspirations of organized labor. Labor has, I think, attained it through the N.I.R.A. It has, through the company union, through the contracts which labor unions sign with management, and through representation on the different government boards. True it is only the beginning, but it is only by trial and error that one can tell how practical and successful a thing might be. It is a great opportunity for labor. As William Green, President of the A.F. of L. put it in an article he wrote for the N.Y. Times, "Here we have the beginning of a real partnership in industry, with the government, in the interest of the nation, sitting in to supervise and direct."[5]

And as Henry I. Harriman, President of the U.S. Chamber of Commerce put it, "But in the administration of it (Section 7(a)) the President may be expected to demand of labor as full an observance of its responsibility as he will demand of

4. N.Y. Herald Tribune, Nov. 18, 1934. Page 24.
5. N.Y. Times, June 25, 1933. Sec. 8. Page 1.

Donald Ribbery said, in a radio address under the auspices of the American Bar Association, "From the history of other nations we must here learn that our political institutions were in deadly peril. Political freedom and security depend on economic freedom and security. In centuries to be a self-governing people we must continue to be a self-supporting people. If an economic system fails to provide an assured livelihood for the masses of the people, it will not support a government of the people."

More general participation of labor in management is one of the negotiations of organized labor. Labor has, I think, attained it through the U.S.A. It has, through the Canadian union, through the contracts which labor unions also make, management, and through representation on the Wartime government boards. Thus it is only the beginning, but it is only by trial and error that one can fill the operations and constructed a better right to. It has great opportunity for labor. As William Green, President of the A.F. of L. put it in an article in state ice the A.F. Times, "Here we have the beginning of a real partnership in industry, with the government. In the interest of the nation, altogether in an advisory and direct."

And as Henry I. Harriman, President of the U.S. Chamber of Commerce put it, "Not in the administration of a (Question (4)) the treatment may be somewhat to demand of labor as full as reservoir of its responsibility as to will demand of

4. N.Y. Herald Tribune, Oct. 1, 1944, Page 24.
5. N.Y. Times, June 28, 1944, Sec. 4, Page 1.

industry to the end that primary objects may be accomplished."[6]

It is a greater opportunity for both industry and labor, but organized labor has the greatest adventure since it must prove its ability, and in doing so can realize the fullness of its responsibility.

Our government because of tradition has always felt as the late President Harding put it, "Less government in business and more business in government." It has always believed in "rugged individualism," and that if you leave a sick patient alone long enough he will always come back to his own self again, well and ready to start all over again.

Times have changed since then. Walter Lippmann in his column "Today and Tomorrow" has said that "The recognition of the right to work as an obligation of the modern state is a revolutionary departure from the ideas of the nineteenth century. It is a necessary departure, however, because in the nineteenth century the opening of the West and the settlement of other new lands created the opportunities which under present-day condition have to be artificially created by organizing public works." One of the most amazing realizations of course is that "It is the duty of the government to provide the unemployed with the opportunity to work. That is to say, there is a right to work."[7] Donald Richberg told the American Bar Association, in justifying more government intervention in business for the common welfare, "But even in that pioneering world of self-sufficient individualists it was recognized also that the Federal government must regulate

6. Ibid. Page 1.
7. N.Y. Herald Tribune. Jan. 8, 1935. Page 21.

interstate commerce, banks, currency and other matters of common concern, where the essentials of a workable economic system must be assured. It has always been recognized that various public services and public utility services must be either provided by the government or made subject to governmental control.

"Thus the concept of political responsibility for the continuous existence and functioning of those economic mechanisms upon which welfare of the body politic depends has been long accepted, not a restraint upon individual liberty but as part of a living guarantee that the freedom of the individual will be preserved."[8]

Besides the right to work and regulation of certain industries, the government is concerning itself with proper housing and slum clearance, redistribution of the workers and factories to increase the opportunities to work, and in other projects which are of great importance for the common welfare of the people.

Another great permanent benefit to organized labor is the forcing of the major political parties to liberalize their platforms in the interests of labor. Votes count, expecially those of the organized labor unions. The parties play up to those votes and the one which offers the best and surest terms gets the votes. That fact is well known and is substantiated in a recent article in the N.Y. Herald Tribune entitled "Labor-Administration Rift May Affect '36 Election Unless Roosevelt Makes Peace, Washington Believes," by John

8. N.Y. Herald Tribune. Nov. 18, 1934. Page 24.

interests conserve, such, currency and other matters of common concern, where the essentials of a workable economic system must be assured. It has already been recognized that various public services and public utility services must be either provided by the state itself or made subject to government control.

"Thus the concept of political responsibility for the continuous existence and functioning of these economic organisms upon which welfare of the body politic depends has been long accepted, not a restraint upon individual liberty but as part of a living organism that are freedom of the individual will be preserved."

Besides the right to work and the direction of certain industries, the government is concerned with provide housing and other elements, rehabilitation of the average and factories to increase the opportunities of work, and so other problems relating or tend to provide for the common welfare of the people.

Another reason why labor should be organized labor is the joining of the major political parties to liberalize their platforms in the interests of labor. Some considerable cases of was mentioned later matters. The parties fear up to change votes but the one which affects the least and secure votes to the so as. [illegible] become and is substantiated in a recent trial. In the [illegible] Tribune entitled "Labor-Liberalism [illegible] affect the [illegible] unions [illegible] labor [illegible]

[illegible] Norris [illegible]

Snure in which he says, "In the early months of the Roosevelt administration it was talked widely that the Administration not only had the full support of organized labor, but that it was going out of its way, through the N.R.A. and otherwise, to grant to labor almost everything it wanted. In the recent Congressional elections the strong support which labor gave the Democratic candidates amounted in no small degree for the huge Democratic majorities in Congress."[9]

In realization of the fact that the Democrats have piled up such a majority, the Republicans too, who have been known for their conservativeness, have been obliged to liberalize their platforms to give more benefits to labor. The New York Republican State Convention pledged themselves to support:

"4. The principle of collective bargaining, the voluntary organization of workers into unions, and their right to be represented by men of their own choosing. Government must protect these rights, and there must be no coercion in making this choice,------."[10]

The above is very much like Section 7(a) of the N.I.R.A., an invention of the Democratic Party. Besides the above pledge affecting labor there is a list of other pledges under the heading of "Labor".

The most complete program in the interests of labor was presented by Governor Lehman in New York in one of his campaign speeches made in Syracuse Oct. 25, 1934. The twelve points presented were

"1. Make permanent----the prevailing rate of wages to

9. N.Y. Herald Tribune. Feb. 10, 1935. Sec. II. Page 2.
10. N.Y. Herald Tribune. Sept. 29, 1934. Page 7.

public works.

"2. Change the present law governing hours of work in factories-----for women, with exemptions for overtime-----"

"3. --------raise the age at which children may leave school.

"4. Tighten the industrial home work law passed this year.----

"5. -----(eliminate) fee splitting, solicitation of the injured, and-----medical abuses-----."

"6. ------stricter regulation of insurance companies underwriting workmen's compensation-----.

"7. Extension of workmen's compensation to occupational diseases such as silicosis.

"8. Outlawing of the 'yellow dog contract'.

"9. Guarantee of the right of trial by jury in cases of alleged violation of labor injunction.

"10. -----Interstate agreements will equalize competitive conditions for New York employers-----.

"11. State regulation of private fee-charging employment agencies.

"12. ----unemployment insurance."[11]

The above twelve points with six other recommendations were presented to the state legislative at Albany by Governor Lehman on Jan. 2, 1935.[12]

The following day, Representative Bertrand H. Snell of New York, Republican leader in the House, presented a 20-point

11. N.Y. Herald Tribune, Oct. 26, 1934. Page 10.
12. N.Y. Herald Tribune, Jan. 3, 1935. Page 8.

public works.

"2. Change the present law governing hours of work in factories----for women, with exceptions for overtime----

"3. --------raise the age at which children may leave school.

"4. Lighten the industrial hours work law passed this year.----

"5. -----eliminate the multiple, duplication of the injured, and----medical exams----.

"6. -------abolish the relation of insurance companies underwriting workmen's compensation----.

"7. Extension of workmen's compensation to occupational diseases such as silicosis.

"8. Outlawing of the 'yellow dog contract'.

"9. Guarantee of the right of union to bargain in cases of alleged violation of labor legislation.

"10. -----Interstate agreements will equalize a minimum condition for new York workers----.

"11. State regulation of private employment agencies.

"12. ----------.

The above twelve points with six other recommendations were presented to the state legislative at Albany by Governor Lehman on Jan. 5, 1935.

The following day, representative Ferdinand J. Small of New York, Republican leader in the House, introduced a bill

11. N.Y. Herald Tribune, Oct. 27, 1934. page 10.
12. N.Y. Herald Tribune, Jan. 5, 1935. page 6.

plan of which four treat of labor and its problems. Number 9 treats of abolition of child labor and the sweat shop; number 16, of care of the needy, aged and unemployed; number 17, of job insurance to be paid by employer, employee and the state; and number 18, old age pensions.[13]

C. President's Radio Address to the Nation.

President Roosevelt, after a steady siege of big strikes and constant warfare between the employers and the employees, tried by appeal and persuasion to get those two groups to promise to a period of industrial peace. In his radio address to the Nation on Sept. 30, 1934, the President said, "Machinery set up by the Federal government has provided some new methods of adjustment. Both employers and employees must share the blame of not using them as fully as they should. The employer who turns away from impartial agencies of peace, who denies freedom of organization to his employees, or fails to make every reasonable effort at a peaceful solution of their differences, is not fully supporting the recovery effort of his government. The workers who turn away from these same impartial agencies and decline to use their good offices to gain their ends are like-wise not fully cooperating with their government.

"It is time that we made a clean-cut effort to bring about that united action of management and labor, which is one of the high purposes of the recovery act. We have passed through more than a year of education. Step by step we have created all the government agencies necessary to insure, as

13. N.Y. Herald Tribune, Jan. 4, 1935. Page 4.

plan of which fact years of labor and its problems. ...con-
a trends of abolition of child labor and the avert ...;
number 16, or more of the needy, aged and ...; number
17, of job insurance to be paid by employer, employee and
the state; and number 18, old age pensions.

C. Roosevelt's Ratio Adverse to the Section.

President Roosevelt, after a study ... of his studies
and conferences with the employers and the employees,
tried by appeal and persuasion to get those two groups to
proceed to a meeting of the minds. In his radio ad-
dress to the Nation on Sept. 30, 1937, the President said,
"Machinery set up by the Federal government has provided
some new methods of adjustment. Both employers and employees
must share the blame of not using them as fully as they should.
The employer who turns away from impartial agencies of peace,
who denies freedom of organization to his employees, or fails
to make every reasonable effort at a peaceful solution of
their differences, is not fully supporting the recovery
effort of his government. The workers who turn away from
these impartial agencies and decline to use their good
offices to gain their ends are like-wise not fully cooper-
ating with their government."

"It is time that we make a clean-cut effort to bring
about that united action of management and labor, which is
one of the high purposes of the recovery act. We have passed
through more than a year of adjustment. When by stop we have
created all the governmental agencies necessary to insure, as
in N.R.A. Social Security, June 4, 1937. Page 4.

a general rule, industrial peace, with justice for all those willing to use these agencies whenever their voluntary bargaining fails to produce a necessary agreement.

"Accordingly, I propose to confer within the coming month with small groups of those truly representative of large employers of labor and of large groups of organized labor, in order to seek their cooperation in establishing what I may describe as a specific trial period of industrial peace.

"I shall not ask either employers of employees permanently to lay aside the weapons common to industrial war. But I shall ask both groups to give a fair trial to peaceful methods of adjusting their conflicts of opinion and interest, and to experiment for a reasonable time with measures suitable to civilize our industrial civilization."[14.]

A few days later Miss Francis Perkins, Secretary of Labor, again appealed to labor at the San Francisco Convention, "For the use, meanwhile, of the machinery established by the government to iron out disputes."[15.]

It was a very good move on the part of the President to appeal to their decency. The appeal of the President wasn't met with any great enthusiasm. Labor was too impulsive to wait for the labor board's decision, and the employers were too stubborn to even present their case before a mediation board. Each wanted to take the law in his hands, but since the President's appeal there have been no great erruptions.

D. How Government, Employers, and Employees Want to Make

14. N.Y. Herald Tribune, Oct. 1, 1934. Page 2.
15. N.Y. Herald Tribune, Oct. 6, 1934. Page 1.

Section 7(a) of the N.I.R.A. an Effective Instrument for Industrial Peace.

Leaders of the church, the public and the government have expressed their views for and against the N.R.A.

Monsignor John A. Ryan, of the Catholic University in Washington, informed the National Conference of Catholic Charities that "The American capitalist must squarely and permanently turn his back on the old order of industry and face a future shaped by the cooperation and social justice inculcated in the National Recovery Act----." He also told his audience that the minimun wages expressed in the N.R.A. Codes are too low, and that "'The right of labor to organize,' he said, 'is a natural right and a necessary implication of the moral law. Furthermore,' he said, 'the workers have a right to maintain whatever form of organization is best adopted to secure just working conditions.'"[16.]

Walter Lippmann, writer and philosopher, feels that"---whatever the initial mistakes of policy in executing N.R.A.----the basic conceptions of N.R.A. are---bound to remain and to determine the future of industrial control in the United States.

"It has become necessary for business to combine and cooperate; but combination in business is intolerable if, in the control of the combination, organized labor and government as the representative of the general interest are not partners. This is the meaning of N.R.A."[17.]

16. N.Y. Herald Tribune, Oct. 3, 1933. Page 40.
17. N.Y. Herald Tribune, Nov. 7, 1933. Page 19.

Section 7(a) of the [illegible] Act of [illegible] "authority for in-
dustrial peace."

Leaders of the Congress, the Adminis and the Government have expressed their views on and of [illegible] the N.L.R.B.

Congressman Fred A. Hartley, Jr. the Republican Minority in Washington, informed the assembled delegates of the Chamber of Commerce that "the Wagner Act is illegal, that it violates and permanently bars his land on the old border of freedom and has a nation shaped by free development and mental freedom inoculated in the Political Economy Act ----." He also told his audience that the minority party "stands ready to take the N.L.R.B. Codes are too few, and have [illegible] of the Union labor to negotiate, he said. "We [illegible] and I am very [illegible] of the moral law. Nevertheless," he said, "the workers have a right to maintain unions. Such of organization is [illegible] adopted by people that employs [illegible]."

Walter Lippmann, writer and [illegible], [illegible] that ---- whatever the initial [illegible] of [illegible] in [illegible] ----- the basic concepts [illegible] ---- [illegible] to [illegible] and to determine the [illegible] of [illegible] [illegible] in the United States."

"It has become necessary for [illegible] to [illegible] and cooperate; but combination in business is [illegible] in the conduct of the [illegible] law, [illegible] labor and [illegible] ment [illegible] the [illegible] of the [illegible] [illegible] partners. This is the [illegible] of [illegible]."

16. N.Y. Herald Tribune, [illegible], [illegible], [illegible].
17. N.Y. Herald Tribune, [illegible], [illegible], [illegible].

Miss Francis Perkins, the first woman to fill a cabinet office, has expressed herself many times on what the N.R.A should accomplish. She said, in a speech before the Merchant's Association of New York, that "'The N.R.A. provides a good technique for balance, and I think that is perhaps the most significant fact in the whole recovery program. It is a program for representing the different groups of public interest in our industries, together with our government.-----"

She later gave "A three-fold program for achieving economic balance as follows:

"First, by finding the useful proportion of wages for labor, as purchasers; for capital, including interest and enough more to obtain industrial expansion and for management.-----

"Second; by achieving the 'true and useful economic relation between farm income and industrial income.

"Third; 'By bringing the wage earners and employers into a useful relationship in industrial planning for the development of their industry into a vehicle not only of wages and profits, but a vehicle of social welfare and of conscious extension of civilization.'"[18.]

At another time speaking before the Columbia University Institute of Arts and Science, Miss Perkins explained that "The aim of the N.R.A.---is to bring about a transition from supreme employer control to a control in which the employee, the employer and the public work in partnership with the government."[19.]

18. N.Y. Herald Tribune, Nov. 14, 1933.
19. N.Y. Herald Tribune, Feb. 13, 1934. Page 8.

The aims which these three leaders set up for the N.R.A. are somewhat idealistic, for the N.R.A. has been distorted in its interpretation so as to favor one group to the detriment of the other. There has been no point of agreement, and capital and labor have pulled in opposite directions hoping that public opinion would swing one way or the other to decide who is right. The consumers are to blame for a great deal of this indecision and missing of the goal N.R.A. was to attain. The public has not supported the N.R.A. and are responsible for much of the existing loss of prestige of the N.R.A. as a device to social reform.

The government, however, set a task for itself when Section 7(a) was written into the N.R.A. That section has caused more trouble than any other part of the Act. It has not received the support that it should. The Department of Justice seems rather reluctant to assume the responsibility of "cracking down" on the recalcitrant employers. The administration, therefore, sees that in the creation of a real effective labor board there will be a better check on evasions. It has consequently "Designed to strengthen the National Labor Relations Board and the principle of collective bargaining----." The law "Would give to the National Labor Relations Board powers of direct enforcement now lacking. It would be enabled to apply to the Federal Courts for orders carrying out its decisions in case of non-compliance. It would also have power to investigate on its own motion to subpoena witnesses and to punish for contempt through application to the courts.

"One proposal is also to eliminate the substance of Section 7(a) from the projected permanent N.R.A. law and incorporate it in the new Labor Board legislation. In any case the purpose is to write into permanent statute the principle of collective bargaining and to empower the board to see that workers have freedom to organize."[20]

Whether the above law will meet the same fate as the original Wagner Labor Disputes Act, which was trying to attain the same results, remains to be seen. However, we may rest assured that industry will fight any such proposal to the last. Present conditions suit them as evasion becomes possible without being drawn into any court litigation. There is no doubt that some such law is necessary, for, according to Francis Biddle, present Chairman of the National Labor Relations Board, "'Court enforcement under the present machinery is slow, uncertain and cumbersome,'------.

"The Biddle Board (also) reported that in only seventeen of the sixty-eight instances of the 7(a) violation had compliance with its decisions been obtained. Twenty-four Blue Eagles had been removed, but in many instances, 'the loss of the Blue Eagle had little practical effect,' it asserted."[21]

Surely something should be done to improve such conditions as exist under the present set-up, and improve the enforcement machinery.

Industry too has shown how it would like to improve the existing labor situation. It has not been favorable to

20. N. Y. Herald Tribune, Nov. 10, 1934. Page 4.
21. N. Y. Herald Tribune, Feb. 13, 1935. Page 4.

legislation such as is contained in Section 7(a), neither is it favorable to government intervention in labor disputes. Consequently the U.S. Chamber of Commerce has offered fourteen changes in the law to lessen Federal power among which are a few labor provisions. The following are of interest:

"VIII. In any legislation it should be unmistakable that collective bargaining with representatives of all groups of employees that desire to act through spokesmen, without the right of a minority group to deal collectively on the direct right of individual bargaining being precluded.

"IX. It should be made explicit that the right of employees to choose their own representatives is to be free from coercion from any source.

"X. There should be extension of the condition against requiring membership in one type of employees' organization to a condition against requirement of membership, or non-membership, in any type of labor organization.

"XI. Rules of fair competition should always contain provisions for minimum wages, for maximum hours of work, and against child labor."[22]

As against provision VIII, IX, and X above, recent statements of the Biddle Board claim that "'Majority rule--- is the keystone of any sound, workable system of industrial relationship by collective bargaining.'", while "Federation chieftains for months have contended the clause guaranteeing employees' rights to bargain collectively should be enlarged to specify 'majority rule' and to outlaw company unions."[23]

22. N.Y. Herald Tribune, Nov. 10, 1934. Page 4.
23. N.Y. Herald Tribune, Feb. 13, 1935. Page 4.

The National Association of Manufacturers also made their suggestions in regard to organized labor. They offer the following six points to be used in a legislative program:

"'1. Make sympathetic strikes and lockouts illegal.

"'2. Make both employers and unions equally responsible for observance of contracts.

"'3. Make it illegal for any association of employers or employees to expell, suspend, fine or otherwise punish members for refusing to participate in an illegal strike or lockout.

"'4. Make picketing illegal when it is carried on in such a manner as to intimidate or coerce employees or customers.

"'5. Declare illegal employment contracts requiring a person either to join or not to join any labor organization.

"'6. No employee shall have any part of his wages deducted by the employer for payment of organization dues without his written authorization and consent."[24.]

I think the Manufacturers' Association was very generous in including manufacturers in their "Specific suggestions." However, their proposals in spite of their generosity would so cripple labor organizations that if such laws were ever passed, labor unions would no longer be necessary.

Organized labor doesn't often stand by while others are proposing laws and acting to limit its rights and increasing its responisbilities. The annual conventions give organized labor an opportunity to make suggestions of their own, and let out all the criticisms and grudges they might have

24. N.Y. Herald Tribune, Nov. 3, 1934. Page 7.

against what ever cause. The San Francisco Convention of 1934 was no exception as labor has had many grievances against the N.R.A. and N.I.R.A.

At the Oct. 2, 1934 session over 100 resolutions were presented. Among the large number were many offering suggestions and changes in the law for a more effective N.R.A., and also for greater security for labor. Among these resolutions are the following:

1. "More drastic enforcement of N.R.A. regulations for the benefit of labor.

2. "Reduction of working hours without reduction of pay.

3. "Establishment of old-age pensions and unemployment insurance.

4. "Enactment of Federal legislation banning 'company unions.'

5. "Closing of industrial plants where strikes are in progress to workers and owners alike, pending adjustment of difficulties.

6. "Increase in maximum relief by the Federal Emergency Relief Administration to meet increased living costs.

7. "Abolition of private employment agencies.[25]

8. "Revival of the C.W.A. Work program.

9. "Protesting government competition with private industry.

10. "Opposition to the cost of living as a basis for wages.

11. "Favoring sympathetic and general strikes when employers unite.

12. "Condemning the injunction and the use of troops in

25. N.Y. Herald Tribune, Oct. 3, 1934. Page 2.

labor disputes.

13. "Against anti-picketing laws and vigilantes."[26]

The above are significant ones out of "215 in all to be considered" which covered every possible question. A resolution was also passed on the "Expression of confidence in President Roosevelt."[27] Labor, in spite of its treatment has constantly expressed its confidence in the President. They look upon Roosevelt as their greater emancipator. It all sounds very sincere, and I feel it is, for no other president has dealt with labor on any equal footing as has President Roosevelt.

On Feb. 11, 1935, at a conference between the President and labor leaders, the spokesmen for labor again express their confidence in the President and "Most earnestly urge that the National Recovery Act be extended with" six recommendations which they offered. These recommendations embodied administration of the Recovery Act, retention of Section 7(a) in the act, child labor, minimum rates of pay and maximum hours of work, labor representation in administration of the National Recovery Act and upon code authorities, and equal right of labor with management to suggest amendments to codes of fair competition. They also talked on the enforcement of Section 7(a), relief work, shorter work week, the automobile workers' situation, and other things concerning the present labor situation.[28]

It is such conferring as this that gives labor its

26. N.Y. Herald Tribune, Oct. 4, 1934. Page 4.
27. N.Y. Herald Tribune, Oct. 3, 1934. Page 2.
28. Based on N.Y. Herald Tribune, Feb. 12, 1935. Page 2.

confidence in President Roosevelt in spite of the treatment and consideration they have received in certain situations as the renewals of the automobile code, refusal to dispense with the automobile labor board, and concessions to industrialists on labor problems.

E. Proposals for Solution to Labor Problems Arising out of Section 7(a) of the N.I.R.A.

There have been many proposals offered by labor leaders, politicians, industrialists, clergymen, economists, and common folks for solving the labor problems which have come up in the past, and which have been accentuated under Section 7(a) of the N.I.R.A. All the proposals have been offered in a sincere effort to put an end to employer-employee differences due to recognition, wages, hours, working conditions, etc. There are so many phases to this labor-capital struggle that no one proposal will be sufficient to adjust every problem. It is rather a combination of all the plans proposed which will eventually bring the peace which we all desire to see.

1. We shall discuss only a few of the better plans which have been suggested which might be used to solve the labor problems confronting American organized labor. The first of these proposals is to have the federal, state, and local governments set the standard for private industry as to hours, pay, and working conditions. Labor students and labor leaders have contended that if the government would only lead the way, industry would follow.

On Sept. 26, 1933 a delegation of the National Association of Substitute Post Office Employees called on Grover A. Whalen,

then city chairman of the N.R.A. to protest against the intolerable conditions under which substitutes had to work. This delegation said, "While the N.R.A. is attempting to increase employment, we feel that the Post Office is not justified in asking us to wait until business conditions are better. This spirit is in flat contradiction to the spirit of N.R.A. Twenty-five thousand substitute postal employees are working under the same conditions which the government is trying to avoid." In answer to this and other statements made, Mr. Whalen replied, "Of course, the government ought always to set a good example."[29]

About a year later at the third annual convention of the American Federation of Government Employees, Matthew Woll, Vice President of the A.F. of L. told these government employees that "They should insist on the same wage---and---hour agreements that the N.R.A. has enforced on private industry.-----

"The government should indicate by precedent and example what private industry is required to do. The efforts of government and private industrial employees are interdependent."[30]

I think we can agree with both Mr. Whalen and Mr. Woll, but industrialists in this country do not favor government competition with private industry in any field. Employers have even protested against the high wages the government has been paying unemployed workers in F.E.R.A. projects. In consequence of these protests, the government has decided to

29. N.Y. Herald Tribune, Sept. 27, 1933. Page 2.
30. N.Y. Herald Tribune, Sept. 12, 1934. Page 23.

pay a much lower rate than industry in any relief work undertaken. Therefore, the spokesmen of labor at the conference with the President on Feb. 11, 1935, protested vigorously because they feel that "Two wage rates, a higher in private industry and a lower in government, cannot be maintained. The higher rate will be forced down to the lower rate.---- If the relief wage cannot be made to correspond with the prevailing wage, the prevailing wage will be reduced until it corresponds with the relief wage."[31]

In competition wages tend to work toward the lower rate, and just as sure as sweat-shop labor in one city or state can affect the higher priced labor in another city or state, so it is just as sure that low government wages in a certain field of activity will tend to pull down all other wages within that field. Besides the government cannot insist on one standard and practice another. It is not consistent. The government should at least equal the wages of minimum comfort or moderate standard of living if the people are to be comfortable and happy. I think in the long run other wages will tend to equal the standards set by the government.

2. A second proposal is compulsory arbitration which is found when a state may insist that differences be submitted to any impartial body for adjudication and award.[32] With an impartial tribunal that can have power enough given to it to investigate, subpoena witnesses, and have power to prosecute the cases, I do not see why differences between employers

31. N.Y. Herald Tribune, Feb. 12, 1935. Page 2.
32. Organized Labor in America, By George G. Groat, Macmillan Co., N.Y., 1926. Page 233.

and employees could not be ironed out. I am prone to agree with General Johnson that strikes are "barbaric warfare" and "relics of the age of chivalry" because I do feel that warfare is not necessary in settling disputes. But organized labor has constantly been against any such thing as compulsion in arbitration.

"'Organized labor in the United States has been steadfastly opposed to compulsory arbitration or investigation', as one leader in the labor movement has stated this position. 'The establishment of compulsory arbitration of labor disputes, if accepted by the people of our nation, would destroy and wipe out the 13th amendment. The enforcement, by law, of one arbitrary decision, against the will of the working people involved, means that such workers would be compelled by law to remain in an employment against their own will." "Besides, as the author puts it, "With compulsory arbitration there would be no use for strikes-labor would lose its most effective weapon, labor organizations."[33]

"Although compulsory settlement of industrial disputes had not been favored in this country, there has been no little use of voluntary arbitration in the United States."[34]

Our profit system almost compels strikes to occur even though we see how futile they are. As Professor Groat of Vermont University put it, "There may be better ways of settling these industrial difficulties than by a strike, but as long as our politico-industrial organization is to rest

33. Labor Economics & Labor Problems, By Dale Yoder, McGraw Hill Co. Inc., N.Y. 1933. Page 493.
34. Ibid. Page 492.

on a competitive foundation, and compulsory arbitration in any form is not possible, strikes must be recognized."[35.]

We may yet find a solution by creating the kinds of labor boards that can produce the results we want them to. Senator Wagner has not given up his fight for "wider powers for the labor board". As Rev. Charles E. Coughlin of Detroit said in one of his regular Sunday radio addresses, "Strikes and lockouts are absolutely unnecessary. It is the business of the public authority to intervene and settle such disputes which cannot be settled amicably by the parties involved."[36.] Until we educate ourselves to that ideal, we should, because of our "Competitive foundation," guarantee labor its prerogatives for "The strike----is the organized workers' most powerful instrument of self-protection."[37.]

3. Incorporation of unions has been suggested as a possible way of making labor realize more fully its responsibility, and also to be in a better position to be recognized and dealt with by the employers. On the other hand the unions would be more liable to law suits for breach of contract or illegal act. "Under present circumstances organized workers receive amounts too close to the minimum of subsistence to make it possible for them to lose money entrusted to their labor organization without such loss jeopardizing their very livelihood."[38.]

35. Organized Labor in America, By George G. Groat. Macmillan Co. N.Y., 1926. Page 215.
36. N.Y. Herald Tribune, Dec. 3, 1934. Page 5.
37. Labor Relations under the Recovery Act, Tead and Metcalf McGraw-Hill Book Co., Inc., 1933. Page 142.
38. Ibid. Page 141.

Henry I. Harriman, President of the U.S. Chamber of Commerce in a radio speech during the Textile Strike "Demanded incorporation of trade unions with full publicity and full liability for their acts."[39] It is rather problematic whether unions would be able to enjoy any greater privileges under incorporation. In might make labor unions more serious and willing to adjust differences without striking, as they could easily be held for losses. But on the other hand they would still be at the mercy of the employers, as they would lack the funds to hire good lawyers and otherwise protect their rights. I think that labor is much better off as it is rather than under incorporation.

4. The high and mighty burgeoisie of the labor unions have, after these many years, finally been convinced of the value of industrial unions over the old type craft unions which have come to be antiquated and impractical. Walter Lippmann, writing for the N.Y. Herald Tribune, says, "But if the new system (choosing of labor representatives by election) is to be continued, it will inevitably mean the development of a new labor organization by plants and by industries which is wholly different in character from the old trade unionism of the A.F. of L. It will mean a revolutionary change in the structure of the A.F. of L. or its decline into relative significance."[40]

Of course, one great factor in favor of an industrial union is that it offers more solidarity of labor union interests. Industries made up of many trade unions with a small

39. N.Y. Herald Tribune, Sept. 19, 1934. Page 8.
40. N.Y. Herald Tribune, Feb. 7, 1935. Page 21.

Henry I. Harriman, President of the U.S. Chamber of Commerce in a radio address recently made the interesting "Proposal Incorporation of trade unions with full responsibility and full liability for their acts."[39] It is rather problematic whether unions would be willing to enjoy any greater privileges under incorporation. In order make labor unions more wardens and willing to adjust differences without strikes, as they ought really be held for losses. Unless the other hand they would still be at the mercy of the politicians, as they would look the funds to hire good lawyers and otherwise promote their rights. I think that labor is much better off as it is rather than under incorporation.

4. The high and ever burgeoning of the labor unions have, after these many years, finally been convinced of the value of industrial unions over the old type craft unions which have come to be antiquated and impractical. Walter Lippmann, writing for the N.Y. Herald Tribune, says, "If the new system (industry of labor representation) is to be continued, it will inevitably mean the development of a new labor organization by giants and by industry which is wholly different in character from the old craft unions of the A.F. of L. It will mean a revolutionary change in the attitudes of the A.F. of L. or its having to yield to significance."[40]

Of course, one of the factors in favor of an industrial union is that it offers more solidarity to lower union interests. Industries made up of many large unions with a small

39. N.Y. Herald Tribune, Feb. 10, 1944, Page 8.
40. N.Y. Herald Tribune, Feb. 7, 1944. Page 21.

number in each, makes it impossible to form strong trade local unions. Moreover, the differences which have arisen between the trade unions when working on the same job, have not led to the best attitude of the public toward trade unions. Because of these facts we can understand John L. Lewis, head of the United Mine Workers, when he "Prepared to carry on a spirited fight to have the Federation depart from its traditional advocacy of crafts unionism in favor of general industrial unions. He declared crafts unions are outmoded, as 'small groups don't always work together and the labor movement is consequently weakened.' He said 'craft organization is moving too slow' and tends to destroy 'employee confidence.'"[41.]

Francis J. Gorman, head of the textile union, later backed Mr. Lewis up at the San Francisco Convention by saying, "'The picture before me is a vast disciplined union that shall bring into its folds the whole army of textile workers. I don't care if you call it a trade, industrial or vertical union, but it is what is coming.'"[42.]

Such organization as industrial unions will allow easier grouping of labor in unorganized trades. At the San Francisco Convention "The American Federation of Labor departed from its traditional policy of Craft unionism today by voting for a qualified form of vertical or industrial unionism.

"Industrial unions will be established first in the automotive, cement and aluminum fields, with organization of

41. N.Y. Herald Tribune, Oct. 4, 1934. Page 4.
42. N.Y. Herald Tribune, Oct. 9, 1934. Page 7.

the steel and iron groups to follow."[43] Labor had made its choice, and has chosen wisely. If labor is to survive it must combine into one solid group, and take under its wings all kinds of workers and crafts.

5. Uniform state laws for enforcement of the N.I.R.A. are very essential in making the Act a success. However this uniformity is attained, is not significant, but better paid labor in one state, cannot compete with cheaper labor in another state. Governor Lehman of New York suggests "Interstate agreements will equalize competitive conditions for New York employers and at the same time permit our state to be in the vanguard of progressive legislation."[44] Elmer F. Andrews, State Industrial Commissioner of New York, in speaking in favor of the five day week said, "'Much of employers' opposition to such a law would probably be based upon the contention that other states, failing to enact similar legislation, would offer unfair competition to New York employers. This brings up the advisability of uniform labor legislation by Federal enactment, or through the codes or both.'"[45]

State rights may have been a fine thing in the days of Jefferson, but today, to combat a world wide depression, state rights must be forgotten. It is the welfare of the people which must be protected and not the rights of the states. In the question of upholding certain standards for labor in hours, wages, working conditions, etc., legislation

43. N.Y. Herald Tribune, Oct. 12, 1934. Page 1.
44. N.Y. Herald Tribune, Oct. 26, 1934. Page 10.
45. N.Y. Herald Tribune, Oct. 28, 1934. Page 16.

the steel and iron groups to follow. Labor has made its choice, and has chosen wisely. If labor is to survive it must come into one solid group, and this under the wings all kinds of workers and craft.

3. Uniform state laws for enforcement of the N.I.R.A. are very essential if making the act a success. However this uniformity is certainly not significant, but better paid labor in one state, causes unrest with the labor in another state. Governor Lehman of New York says "Interstate agreements will equalize competitive conditions for New York and other states at the same time permit our state to be in the van instead of retrogressive legislation." Andrews, state industrial commissioner of New York, in speaking in favor of the Wagner day rest said, "Most of organized opposition to such a law would probably be based upon the contention that other states, failing to enact similar legislation, would offer our city competition to the New York employers. This brings up the possibility of uniform labor legislation by federal mandate, or by having the nation as both."

State rights are more a line drawn in the days of Jefferson, but today, to consider an old and vital component state rights must be forgotten. It is one of many problems which must be protected and not one right of the states. In the question of social insurance, workers for labor in both, wages, working conditions, etc., legislation

[illegible] Herald Tribune, Oct. 14, 1934. Page 1.
[illegible] Herald Tribune, Oct. 15, 1934. Page 10.
[illegible] Herald Tribune, Oct. 24, 1934. Page 12.

must be uniform, or the weaker states will force the stronger states to their level. General Johnson best expresses that point in his articles on "The Blue Eagle from Egg to Earth." He says; "We talk about interstate and intrastate commerce. As John Marshall once said; 'In commerce we are one people,' and that was never more forcibly demonstrated than upon passage of the Recovery Act.----Intrastate Commerce and industry compete with interstate commerce and industry. Unless we could find some rule to put them on the same basis of hours and wages, we would have been scarcely justified in doing anything at all, because intrastate operations would simply have ruined interstate enterprise.----State lines are not the significant lines in American Commerce. If there are any clear lines of demarcation, they are regional rather than state boundaries. The areas are economic rather than political."[46]

Because we have state lines and insist on their recognition we have such cases as defiance of the Federal government of a company doing a purely intrastate business; we have one company moving into another state to avoid carrying out its contracts; and have states giving up the "baby" N.R.A. laws because of unfair outside competition, etc.

6. Organized labor has made certain proposals to increase employment. The first of these was the thirty-hour week. We have heard much about it both pro and con. As far back as April 26, 1933, Gerard Swope, President of the General Electric Company, told the House Labor Committee in Washington that

46. Saturday Evening Post, Feb. 2, 1935. Page 85.

must be uniform, or the weaker states will force the stronger states to their level. General Jackson hit exactly that point in his analysis on "the blue ladle from hell to earth." He says, "We talk about interstate and international commerce. As Alexander Hamilton said: 'In commerce we are one people,' and that was never more forcefully demonstrated than upon passage of the recovery act.----Interstate commerce and industry complete with intricate questions and interrelations. Unless we could find some rule by which the strong states could be brought up, we should have been strongly inclined to defer exercise of all, because interstate commerce could simply have meant interstate anarchy.----Unless all states are the significant items in American commerce. If there are any states lines of demarcation, they are vertical rather than horizontal separation. The great city economic so far from unilateral."

Economic ex have state lines and lack of uniformity regulations, we have such cases as defiance of the Federal Government's monetary duty, a purely interstate business; or have one state-by moving into a few states to avoid enforcing all the conservation and have states rising up and "Ban" U.S.A. laws because of unfair unwelcome competition, etc.

B. Original labor has been seeking movement to increase employment. The first of June was the Labor-Day week. We have heard much about the national one. In the last six April 26, 1933, Barney Cohen, President of the Central Trades Congress, told the house Labor committee in Washington that [illegible] Saturday evening Jobs, [illegible] etc.

the 30-hour work week proposal "'Would have little effect, as our workmen today are employed on an average of less than thirty hours a week.'"[47.]

In other words, you cannot arbitrarily shorten the work week unless production has been stepped up sufficiently, not only to keep those already employed occupied for 30 hours, but also to absorb other workers to manufacture the goods demanded by increased payrolls and purchasing power, and greater consumption of the goods manufactured.

General Johnson believes "That a prudent and scientifically determined shortening of hours with no diminution of weekly pay can create new consumption----. I must hasten to add that this implies no support to the idea of a thirty-hour week with no decrease in weekly wages, indiscriminately applied.------."[48.] There is no doubt that much good will come when we can reduce the work week to thirty hours, but much reorganization and improvement must come to our economic structure before that will take place, although I do think that a thirty-hour week is inevitable.

The other proposal of labor is an arbitrary thirty per cent increase in the levels of industrial production. On Oct. 28, 1934, Wm. Green "'Proposed today that the Roosevelt administration initiate a program calling for a 30 per cent increase in the production level of industries."[49.] This proposal is just as impractical as the arbitraty thirty-hour work week. Increased production will automatically take care of itself when the time comes. This, of all the ideas

47. N.Y. Herald Tribune, April 27, 1933. Page 32.
48. The Saturday Evening Post, Jan. 19, 1935. Page 69.
49. N.Y. Herald Tribune, Oct. 29, 1934. Page 1.

put forth, is the easiest to apply as the manufacturer will be very glad, as business improves, to increase production and thereby increase his profits. But industry must not forget, that these proposals must be made to benefit labor as business improves. Labor will not stand bearing the brunt of the depression and then being left out of any benefits accrued during prosperous times.

7. One of the best proposals advanced is that of a greater cooperation between capital and labor--closer employer-employee relationship. In the June 25, 1933 issue of "The N.Y. Times", William Green, President of the A.F. of L., said, "The Industrial Recovery Act marks a recognition of the fact that industry is essentially a partnership which can function effectively only when it serves the welfare of investors of capital and producing workers. These two groups must work together so that both may prosper; they in turn must serve the public or they will lose their source of revenues."[50.]

It is no secret that labor and capital have been far from being a partnership. In a partnership there is a fiduciary relationship, mutual cooperation, and concerted action which has not existed since the N.I.R.A. became a reality.

Conditions have been far from what Mr. Green anticipated they would be. But labor is to share some of the blame in this respect. It has acted rather impulsively at times. It has seemed as if both labor and employers had "Agreed to disagree", rather than be a "Partnership."

50. N.Y. Times, June 25, 1933. Section 8. Page 1.

We do find a few isolated cases, however, where cooperation between the two factors has led to satisfactory agreements and contracts. We have such examples as the Endicott-Johnson Shoe Company and the Columbia Conserve Company who both have a satisfactory working arrangement with their employees. Then we have the Boston Carmen's Union and the Boston Elevated Railway arriving at a satisfactory agreement over wage increases;[51] the representatives of the Interborough Brotherhood and the Interborough Rapid Transit Company of New York coming to a satisfactory agreement on reduction of hours, increase of pay,[52] and abolition of the "yellow dog" clause of previous contracts between the company and the employees;[53] the representatives of Local, 906 of the Cigar Salesmen's Union and Schulte Retail Stores Corp. and D.A. Schulte, Inc. coming to an agreement on wage increases to apply to the entire force employed;[54] and that of International Brotherhood, Local, 584 and Borden's Farm Products Company, Inc., coming to an agreement on wage and hour schedules and granting recognition of the Union.[55]

We have an attempt at cooperation when the Cotton Textile Institute received a proposal from the United Textile Workers of America "That it get together--in a joint effort to expand the market for the industry's product." This proposal was made by Mr. Francis J. Gorman for the union, and sent to

51. The Boston Herald, July 20, 1934. Page 1.
52. N.Y. Herald Tribune, Dec. 10, 1934. Page 1.
53. N.Y. Herald Tribune, Dec. 11, 1934. Page 5.
54. Ibid. Page 4.
55. N.Y. Herald Tribune, Dec. 14, 1934. Page 8.

George A. Sloan, chairman of the Textile Institute.[56] At least it shows an attempt although nothing may ever come of it. We must admit that cooperation between labor and management is one of the best solutions to the labor problem, and if industry is reluctant and too obstinate to accept it, they will have to accept whatever belligerence labor shows as natural and inevitable.

Company unions are a means of fostering greater cooperation between the employee and the employer, but there is too much internal domination which shows itself in the lack of self-expression and initiative on the part of labor. On the other hand, William Green says that "Organized labor is not a force to be feared by those who seek true industrial progress. On the contrary it has the power to make a contribution to industry which can be had in no other way. When given a share in responsibility for production and a voice in the direction of policies concerning the workers, organized labor has shown that it can meet industrial problems with judgment and resourceful ability. Under various systems of union-management cooperation, workers have felt a responsibility and a partnership in the industry which has stimulated intellectual efforts and brought substantial benefits to the industry. Prevention of waste, saving of materials, better production methods even inventions of machinery to increase efficiency have been part of the workers' contribution. They have gone out of their communities to solicit trade for their employers. Local union meetings have become discussion

56. N.Y. Herald Tribune, Nov. 5, 1934. Page 1.

forums for plant problems."[57]

8. There should be certain requirements demanded of a man who establishes a new business. A man who wants to be a doctor, lawyer, teacher, dentist, or certified public accountant must pass certain examinations, yet we allow a man to open any business he wishes without questioning his ability and his honesty. A man should be able to pay a living wage based on the government budget for "Decency" level; he should offer good working conditions and steady employment; and he should promise to uphold the rules and regulations set as the rules of the trade. I do not think that is too much to ask. If our system cannot offer that much security, then something should be done about it.

The President upon signing the N.I.R.A. on June 16,1933 said "No business which depends for existence on paying less than living wages to its workers has any right to continue in this country. By 'business' I mean the whole of commerce as well as the whole of industry; by workers, I mean all the workers--the white-collar class, as well as the man in overalls; and by living wages, I mean more than a bare subsistence level--I mean the wages of decent living."[58] We have fallen far short of the above level, so that labor as a whole is not much better off than before the N.I.R.A. was passed. Industry should be required to pay a living wage as a condition for its continued existence.

9. Probably much of labor's troubles are due to the lack

57. Iowa State Federation of Labor Yearbook, 1928. Pg. 9. Wm. Green on "Company Unions."
58. N.Y. Herald Tribune, Sept. 3, 1933. Magazine Page 2. Labor and the New Deal, By Wm. Green.

of conscientiousness, honesty, and hard work of their leaders. We admit that, and at the same time we must put some of the blame for bad labor leadership on industries' shoulders. Industry does not want to see organized labor progress and prosper, consequently it tries to weaken labor organizations in devious ways. One method is "Bribing or hiring away the able of those in charge of labor,"[59] then critisize the unions for their irresponsible and power-seeking leaders.

The American Iron and Steel Institute issued a booklet during June, 1934, in which they criticized the labor leaders. It said, "'Under the regime of 'union labor' employees are represented by union officials, often men of little plan experience and no business training, who have no constant, direct or immediate contact with the employees and their problems, and appear to be interested chiefly in collecting dues, on which they are dependent for their salaries and expenses.

"Only too often these men are not concerned with the welfare of employees or with special conditions in individual plants. They are more concerned with building up their own personal power and the power of their organization.

"Thus under 'union labor' leadership it often happens that decisions for whole groups of employees are made by individuals who are not members of the group, who do not understand the needs of the group, and who very often are located at a remote point and are not directly answerable

59. Labor Economics and Labor Problems, Dale Yoder. McGraw-Hill Book Co., Inc., N.Y. 1933. Page 539.

to their own constituents."[60]

The above may be true in some respects, but we could apply the same criticism to the director who travels from one business to another making decisions for a type of business he has no knowledge of or never saw. That may be one reason why so many businesses fail, and it probably is why so many labor leaders are incompetent. At least the labor leaders stick to one task. Labor has also been accused of having criminals as leaders. True labor leaders are not always of the best caliber, but neither are all business men. Given time, labor will and can develop the kind of leadership it deserves. They have done well in spite of their many drawbacks.

10. Injunctions have been a great drawback to organized labor although they have varied in their severity and the restrictions they have imposed. The promiscuous issuance of injunctions merely on affidavits and ex parte hearings as "'The most grave abuse in industrial controversies,'" was attacked by Thomas B. Eames, President of the New Jersey State Federation of Labor. He said, "'Labor demands that no injunction be granted except on actual testimony of witnesses in open court,-----. Capitalists declare that this is revolutionary. Yet in the days of the Magna Charta even the most hardened criminal had the right to a fair trial.'"[61] The indiscriminate use of an injunction and the harm that it can do has already been taken up in another chapter.

60. N.Y. Herald Tribune, June 5, 1934. Page 33.
61. N.Y. Herald Tribune, Sept. 11, 1934. Page 18.

Senator Burton K. Wheeler of Montana, appearing as counsel for the longshoremen's union in an injunction action before Justice Burt J. Humphrey in the Supreme Court in Brooklyn "Made a sweeping attack on the issuance of injunctions in labor disputes. It was rank hypocrisy, he argued to grant workingmen the right to organize and concede their right to strike and then to deprive them of their right by court injunctions. This practice in labor disputes he asserted, 'tends to break down the confidence we all have in our system of government' and 'takes away the liberties of the American workingman.'

"These injunctions, furthermore, he asserted, undermined the bulwark of the country's whole labor union philosophy, and 'when you destroy organized labor in this country you destroy the fundamental precepts of liberty.'"[62] I think both of these arguments by a labor leader and by the Senator are convincing enough that an injunction can do much harm to organized labor as no genuine collective bargaining can be had as long as it is so easy to prevent labor's freedom of action.

11. The "yellow-dog" contract, another means of limiting labor's freedom of action, since it is "Against public policy" and a kind of "human slavery", should be outlawed. Yet "As a result of the first (Case--Hitchman Coal and Coke Co. vs. Mitchess, 245 U.S. 229 (1917)), numerous courts of minor jurisdiction have held that it is illegal for labor organizers

62. N.Y. Herald Tribune, Nov. 28, 1934. Page 21.

to make any effort to encourage breach of an anti-union contract."[63] And "From these decisions (Adair v. the U.S. 208 U.S. 161, and Coppage vs. Kansas 236 U.S.1) therefore, it appears that the court regards anti-union contracts as legal and proper and that it will hold legislation attempts to prohibit these contracts unconstitutional."[64]

"Therefore, while it is perfectly proper for workers to organize and to bargain collectively, it remains equally proper, in most jurisdictions, for employers to reject workers who refuse to forego union membership."[65] What is a legislature and a worker to do. They are both helpless, but such action as taken by the Senate in refusing Judge Parker a seat in the U.S. Supreme Court is a step in the right direction. Eventually, we will get a group of men in the Supreme Court with enough sense of justice, who will eventually help to outlaw such a contract.

12. How much responsibility has labor assumed under the N.I.R.A.? I presume the answer might be asked of industry, and the answers would differ but slightly from each other. On the other hand, industry is supposed to offer the leadership in any great economic move. Instead of showing the way, they have "Upheld traditions" and given up very little, expecting a great deal in return. How can labor assume any responsibility if it is as irresponsible as it is pictured by the industrialists in their publicity drives. Industry

63. Labor Economics and Labor Problems, By Dale Yoder. McGraw-Hill Book Co., Inc., N.Y., 1933. Page 481.
64. Ibid. Page 482.
65. Ibid. Page 483.

with all its outstanding men has not shown the way by its insistence on "merit" clauses, its institution of company unions, its discriminations due to union membership, its chiselling, and its open warfare, etc. Labor has never had much responsibility given it, but what is has received, it has assumed without flinching and with very good results. Labor will realize its responsibility more and more as it is thrust upon its shoulders, for labor can accomplish what it wills to do.

13. Inventions have come so rapidly in industry, that every new machine puts more men out of work. The machine is a blessing to mankind if properly used, but if it cannot be coordinated with our economic structure, our production scale goes off balance. We have not developed the problem of distribution sufficiently so as to absorb all goods produced. Therefore, a suggestion has been advanced that no new machines be introduced for a time so as to give society an opportunity to catch up with them. One way to retard inventions is by levying a tax on new machines, and use that tax to indemnify the workers it has displaced. I.J. Ornburn, President of the Cigar Makers' International Union of America, as far back as Nov., 1933 suggested that "Each worker who is displaced in the future by an automotive machine would be paid $10 a week until he is 'absorbed elsewhere.' The fund would be administered by a relief committee appointed by the Code Authority

set up to administer the cigarmakers' Code.

"'The right to progress technologically', Mr. Ornburn said, 'does not transcend the human right to live.-------.'

"'Such a contribution would place the responsibility for technological unemployment squarely on the shoulders where it belongs.'"[66.]

William Green, who was at the same meeting as Mr. Ornburn, endorsed the plan and stated "That reduction of hours of labor not only result from, but tends to encourage further installation of machinery.

"'Machines may be either friend or enemy of labor, but they may also be either friend or enemy of industry and the country as a whole.'

"'If technological unemployment is unimportant, as some have claimed, then the proposed contribution to the unemployment fund will not be a burden on the industry.'"[67.]

Labor has always tried to protect its position, for which we cannot blame them. They resent the machines which displace jobs and therefore workers. These displacements mean greater unemployment. Moreover, as labor argues, employers restrict output artificially to steady the market or prices, and increase profits, therefore, why can't we limit the machine and guarantee our jobs. What is fair for the employer is fair for the employee. It is perfectly legitimate for industry to do it and even get government sanction, but for labor it is a radical proposal and not for the best interests of society.

66. The U.S. News, Nov. 27, 1933. Page 10.
67. Ibid. Page 10.

set up to substitute the mechanical code.

"The right to progress technologically", Mr. Cronson said, "does not presuppose the right to live.-------

"Such a contention would make the responsibility for technological unemployment primarily on the shoulders where it belongs."[46]

William Green, who was at the same meeting as Mr. Cronson, endorsed the plan and said that reduction of hours of labor not only relieve fatigue, but tends to encourage the maintenance of machinery.

"Machines may be either friends or enemy of labor, but they may also be neither friend or enemy of labor, but the country as a whole."

"If technological unemployment is delayed, as some have claimed, then the proposed contribution to the unemployment fund will not be a burden on the industry."[47]

Labor has always tried to protect its position, for which we cannot blame them. They resent the possible entrance of higher job and otherwise workers. These technocrats make greater unemployment. Moreover, as labor argues, it lessens material output artificially to supply the market or prices. Not labor's profits, therefore, why don't we limit the income and reduce our jobs. What is fair for one is fair for the employee. It is perfectly legitimate for industry to do it and even get government assistance. But for labor it is a radical proposal and not fair for the best interests of our nation.

46. The N.Y. News, Nov. 27, 1933. Page 10.
47. Ibid. Page 10.

One of the best proposals is to introduce machines gradually so that industry will have an opportunity to absorb any displaced worker.

14. Homework and sweat shops are almost synonymous terms, and usually go hand in hand. When one speaks of sweatshops then, one may infer that it also refers to home work, and visa versa, although it may not necessarily be true at all times. General Hugh S. Johnson did, and still does, insist that sweat shops were abolished within four months of the passing of the National Industry Recovery Act. If he means that factories are no longer sweatshops, then he might be correct, but if he means that all kinds of work paying sweatshop wages was abolished then he is wholly mistaken. We get some very startling reports of conditions still in existence in spite of the N.I.R.A.

Mrs. Elinore M. Herrick, Chairman of the Regional Labor Board of District Number 2, in an address before the State Labor Standards Committee and the Consumers' League of New York says, "That in every state in the union women were working at home for less than five cents an hour, rates that made Japanese labor conditions seem quite attractive. She said that the American standard of living was vanishing due to the destructive force of homework.

"'The old era of the sweatshop was almost an age of plenty in comparison with wages paid today in homework industries. The jungle has come back to industry.'

"'Although it is freely recognized that thousands of workers are illegitimately getting homework in the industries where the codes specifically forbid it, nothing has been done

to control the situation on the part of the code authorities', Mrs. Herrick said."[68]

Rose C. Field, writing on "Homework Creates an Economic Issue" for "The New York Times" said, "About 600 Codes have been signed by President Roosevelt since July, 1933. Roughly 20 per cent of them include provisions on homework. Eighty codes definitely bar it, the rest include provisions to control and regulate it. These codes, more than a hundred in all, represent hundreds of thousands of workers scattered all over the country, in fashionable suburbs where women work for pin money and candle-lit shacks where they work to keep alive.

"There is probably no state in the Union which does not posess its quota of homeworkers.----Their rates of pay, according to a published statement by one of the Code Authority directors vary from 3 to 5 cents."[69]

The above is a small picture of the vast problem the American worker is confronted with, when he has to compete with wages as low as those quoted. No wonder we cannot maintain adequate standards of hours, wages, working conditions, and living. "'We must educate consumers', said Mrs. Herrick 'either to do without embroidery or other products of exploited homework or pay for it in terms of a decent wage rate for the workers.'"[70] Work must be done under proper sanitary conditions, with adequate wages, reasonable hours, and steady employment. Homework must be outlawed and sweatshops must be abolished.

68. N.Y. Herald Tribune, Oct. 24, 1934. Page 2.
69. The N.Y. Times, Nov. 4, 1934. Section 8 Page 2.
70. N.Y. Herald Tribune, Oct. 24, 1934. Page 2.

15. A man who, although employed, receives a very low wage, cannot set aside enough money for certain contingencies which may or are bound to occur. There are many hazards of life such as unemployment, illness, accidents, and old age that he must provide for. Protection against these uncertainties of life is called social insurance.

It was estimated that through July, 1934 there were eleven million unemployed inthe United States,[71] yet we have only six-tenths of one per cent protected by unemployment insurance, and those are in one state--Wisconsin.[72] We had approximately seventeen million persons receiving unemployment relief for July, 1934. The estimated population of people, 65 years and over, for 1934, was seven and a quarter millions of which the estimated number in need was two and a half million for the same period.[73]

The United States, one of the most backward nations in social insurance, has finally decided to do something to relieve the distress experienced by these large numbers. Many proposals have been offered such as the Townsend Plan, the Wisconsin Plan, the English Plan, and others. In addition to these, means of building up a fund has been discussed; whether there should be contributions by industry alone, or by industry and the government, or industry, the government and the worker.

The English plan seems to be the simplest and the most practical, but whichever plan evolves from the present debate

71. The American Observer, Nov. 12, 1934. Page 6.
72. The American Observer, Nov. 26, 1934. Page 6.
73. Ibid. Page 6.

in Congress, let us hope that it is a simple plan, easy to administer, practical, and one that can be uniformly administered throughout the United States. The matter of social insurance should be a Federal rather than a state project, if all workers are to be protected equally without discrimination; and should cover all types of workers in all trades. Social security is essential if the people of the United States are to enjoy a steady wage to insure a uniform standard of living, and to enjoy health, happiness, and prosperity.

I hope that the same can be said of our plan as is said of the English plan. "The employer likes it, because it gives him contented and settled workers and relieves him of responsibility; the employee likes it, because it gives him a sense of security; and the government is in favor of it because it plays an important part in maintaining a higher national standard of health and living generally."[74]

F. The Real Solution to the Problem.

As has been said before, the real solution to the labor problem is not any one of the above proposals, but a combination of all the best elements of all of them, combined with a great deal of human feeling and greater tolerance of one group toward the other. Labor and capital must forget all their dislikes and animosities. It must be an employer-employee-government group rather than three separate groups,

74. Junior Red Cross Journal, Jan. 1935. "Against a Rainy Day." By Violet K. Libby. Page 107.

each looking out for his own interest at the expense of the other. We are all members of one great country, so we each should strive to make it a pioneer in progress and peace. The government is the people, so that if the people fail, the government will fail too.

Section 7(a) does not guarantee any rights to labor any more than it takes away rights from capital. The section is there, as I see it, to reaffirm labor's rights and at the same time to give industry certain rights. The section is plain, neither requiring interpretation or elucidation. The harm comes when each tries to give it its own interpretation to the detriment of the others. The section should be interpreted by the courts alone, and in the spirit in which it was inserted in the act, not according to its letter. The law should be upheld in the interests of all and not be held up to the injury of any one group.

Therefore membership in the National Industrial Recovery Act should be a privilege bestowed upon a company that is willing to live up to the spirit of the Act, rather than to reap greater profits by merely showing the Blue Eagle.

If there is to be industrial peace; and if there is to be social progress, then Section 7(a) should be used as the key to greater output of higher quality and higher living standards for the masses.

FINIS.

BIBLIOGRAPHY

Text Books

1. Yellow-Dog Contracts--Condemned by Experts A. F. of Labor Washington, D. C. 1930 Pages 13, 15, 17.

2. Yellow-Dog Contracts--Menace to American Liberties A. F. of Labor Washington, D. C. 1930 Pages 8, 10, 11, 13, 14, 15, 16, 17, 18, 31, 42, and 58

3. Labor Attitudes and Problems Atkins and Lasswell Prentice-Hall N. Y. 1924 Pages 246 and 367.

4. Modern Economics Problems (2nd Revised Edition) Fetter Frank A The Century Company, N. Y. 1924 Pages 368 and 369

5. Organized Labor In America George Groat Mac Millan Company, N. Y. 1926 Pages 197, 209, 210, 215, 233, and 492.

6. A Primer of the New Deal E. E. Lewis American Education Press, Inc., N. Y. 1933 Page 14, and 17.

7. A Handbook of the N.R.A. (2nd Edition) Mayers Federal Codes Inc., N. Y. 1934 Page 21, 22, 30, 31, 37, 38, 39, 41, 77, 82, 92, 137, 138, 139, 142, 143, 144, 145, 148, 149, 151, 156, 161, 163, 164, 177, 204, 207, 208, 209, 221, 222, 223, 227, 232, 234, 239, 240, 241, 244, 245, 246, 384, 397 to 436.

8. Release Number 126 August 14, 1934. Page 1.

9. Immediate Release Number 141 National Industrial Relations Board, Washington, D. C. September 1, 1934 Page 7.

10. Release Number 160 September 26, 1934 Page 1

11. Immediate Release Number 187 National Labor Relation Board Washington, D. C. October 29, 1934 Pages 1 & 2.

12. Immediate Release Number 169 National Labor Relations Board Washington, D. C. October 4, 1934 Front Page.

13. Release Number 232 December 18, 1934 Page 1.

14. Immediate Release Number 209 National Labor Relations Board Case 55 Washington, D. C. November 21, 1934 Page 5.

15. Release Number 250 January 10, 1935 Page 1

16. Economic Problems of Modern Life Patterson and Scholz (2nd Edition) Mc Graw-Hill Book Company, Inc., N. Y. 1931 Pages 614, 616, and 629

17. Outline of the "New Deal" Legislation of 1933 Piquet, Howard S. Pl Mc. Graw-Hill Book Company, Inc., N. Y. Page 7.

18. Your Job and Your Pay Pollack and Tippets
Vanguard Press, 1931 Brookwood Labor Series Page 218

19. Digest of the Purposes of Current Federal Agencies Prepared by the U. S. Information Service, Washington, D. C. 1934 Page 34

20. On Our Way Roosevelt, Franklin D.
The John Day Company, N. Y. 1934 Page 97

21. Labor Relations Under the Recovery Act Tead and Metcalf
McGraw-Hill Book Company, Inc., N. Y. 1933 Pages 141, 142, 233, 234, and 242

22. Business Organization and Control Tippetts and Livermore
D. Van Nostrand Company, Inc., N. Y. 1932 Pages 624, 630, and 631

23. Decisions of the National Labor Board II
U. S. Government Printing Office, Washington, D. C.
August 1933 to March 1934 Pages 6, 19, 68, 87
April 1934 to July 1934 Front VII and Front VIII Pages 6, 9, 10, 33

24. Debate Handbook J. Weston Walsh (Series No. A-7 and A-9)
The Debates Information Bureau, Portland, Maine 1933 Page 8

25. Labor Economics and Labor Problems Yoder, Dale
McGraw-Hill Book Company, Inc., N. Y. 1933
Pages 441, 478, 479, 481, 482, 483, 492, 493, 502, 503, 507, 539

Magazines and Periodicals

1. American Federationist August 1933 Pages 883 and 802-3
September 1933 Page 907 January 1934 Page 42

2. American Labor Legislation Review March 1928 Pages 91 and 92

3. Babson's Report October 9, 1933 Page 5

4. Business Week September 23, 1933 Pages 2, 3, 9, and 10
October 7, 1933 Pages 3 and 5

5. Communist (The) October 1934 Pages 932 and 969
November 1934 Pages 1107 and 1117

6. Commonweal October 13, 1933 Page 544

7. Current History August 1933 Page 569

8. Factory Management and Maintenance October 1933 Page 408

9. Financial World (The) October 11, 1933 Page 349

10. Forum and Century September 1933 Page 3

11. Goodhousekeeping September 1933 Pages 185 and 188
October 1933 Pages 4, 16, and 17

12. Harpers Magazine November 1930 Pages 643 and 646
October 1933 Page 603

13. Hide and Leather October 7, 1933 Page 34

14. Iowa State Federation Labor Year Book 1928 Page 9

15. Junior Red Cross January 1935 Page 107

16. Literary Digest September 30, 1933 Page 7
June 9, 1934 Pages 9, 15, and 31 June 23, 1934
Page 115 December 15, 1934 Page 5
December 22, 1934 Page 6

17. Nation (The) July 26, 1933 Page 89; September 20, 1933
Page 311; September 27, 1933 Page 346; October 18, 1933
Page 428; January 10, 1934 Page 42; July 18, 1934
Page 60 and 61; December 19, 1934 Page 700

18. Nation's Business June 1933 Pages 6 and 26; July 1933
Page 24

19. New Outlook October 1933 Page 34

20. New Republic August 30, 1933 Pages 33 and 64;
September 6, 1933 Page 88; August 16, 1933 Page 20;
November 28, 1934 Page 72; January 9, 1935 Page 250;
February 6, 1935 Page 348

21. Manufacturer's Record August 1933

22. Monthly Bulletin, City National Bank, N.Y. October 1934
Page 158

23. Monthly Review, Federal Reserve Bank, N.Y. Business
Conditions in the U.S. January 1, 1935 Page 6

24. Outlook November 12, 1930 Page 414

25. Review of Economics Statistics (The) August 15, 1933
Page 121

26. Saturday Evening Post June 30, 1934 Pages 77, 87, and
78; October 27, 1934 Pages 78 and 80; January 12, 1935
Page 77; January 26, 1935 Pages 67 and 85; February 2,
1935 Pages 18, 19, 85, and 88; January 19, 1935 Pages 6
and 69

27. Spectator January 3, 1931

28. Survey March 1930 Page 658

29. Survey Graphic May 1934 Page 216

30. Textile Colorist September 1933 Page 62

31. Yale Review Autumn 1933 Page 15

32. U. S. Law Review August 1933 Page 386

Newspapers

1. American Observer October 1, 1934 Page 7; November 12, 1934 Page 6, November 26, 1934 Page 6

2. Boston Evening Globe October 18, 1933 Page 14

3. Boston Herald (The) July 19, 1934 Page 10; July 20, 1934 Page 1; July 21, 1934 Pages 2 and 4; February 28, 1935 Pages 1 and 3

4. Boston Post July 24, 1934 Page 13; July 26, 1934 Page 21

5. Boston Traveler November 8, 1934 Page 3

6. Bridgeport Times Star (The) September 28, 1934 Page 8

7. N. Y. Times

1933

January 25,	Page 1
July 16,	Page 1
August 6,	Page 1
August 13,	Page 5
September 24,	Page 3
October 23,	Page 1

1934

September 5,	Page 5 and 6
September 31,	Page 9
November 4,	Page 3 and 4
November 7,	Page 23 " 25
November 8,	Page 3

8. New York Herald Tribune

1931

September 23,	Pages 1 & 2
September 24,	Pages 2, 3, & 21

1933

April 20,	Page 2
April 27,	Page 32
April 28,	Page 4
April 29,	Page 23
May 8,	Page 2
May 10,	Page 6
May 18,	Page 2
May 25,	Page 34
June 7,	Page 21
June 25,	Page 1
July 16,	Page 2
August 21,	Page 2
August 23,	Page 2
August 24,	Page 6
August 30,	Page 2
September 2,	Page 2
September 3,	Page 2
September 13,	Page 5
September 19	Page 10
September 20,	Pages 2, 24, & 7
September 27,	Page 2
September 31,	Page 9
October 3,	Pages 40 & 45
October 4,	Page 29
October 8,	Page 24
October 13,	Page 2
November 2,	Page 6
November 7,	Page 19
November 15,	Page 11
November 18,	Page 5

New York Herald Tribune

1933 Cont.

December 12,	Page 2
December 15,	Page 12
December 19,	Page 8
December 22,	Page 36
December 30,	Page 7

1934

January 3,	Pages 8 & 10
January 10,	Page 10
January 11, 19	Pages 1 & 21
February 10,	Page 6
February 13,	Pages 4 & 8
March 1,	Page 2
March 2,	Page 1
March 4,	Page 20
March 19,	Page 2
March 23,	Page 8
March 26,	Page 21
April 8,	Page 22
April 10,	Pages 1 & 2
April 16,	Page 2
April 19,	Page 4
May 3,	Page 8
May 25,	Page 25
May 27,	Page 14
June 3,	Page 16
June 5,	Pages 33 & 7
June 6,	Page 21
June 8,	Page 12
June 10,	Page 16
June 15,	Page 6
June 16,	Page 12
July 10,	Page 2
July 16,	Pages 3 & 10
July 17,	
July 18,	Page 16
July 20,	Page 16
August 28,	Page 5
August 29,	Page 9
August 30,	Page 10
August 31,	Page 2
September 1,	Page 8
September 4,	Page 3
September 6,	Page 3
September 7,	Page 2
September 8,	Page 19
September 11,	Page 14
September 13,	Page 4
September 15,	Pages 2 & 3
September 16,	Pages 2 & 8
September 20,	Page 12
September 21,	Page 37
September 22,	Page 1
September 23,	Page 1
September 25,	Page 29
September 26,	Pages 1 & 21
September 28,	Page 35
September 29,	Page 30
October 2,	Page 27
October 3,	Pages 2 & 5
October 4,	Pages 2 & 4
October 5,	Page 7
October 10,	Pages 8 & 33
October 11,	Page 6
October 12,	Page 2
October 13,	Page 1
October 17,	Page 2
October 18,	Page 5
October 19,	Page 36
October 25,	Page 4
October 28,	Pages 16 & 36
November 1,	Page 5
November 2,	Pages 2 & 4
November 3,	Page 1
November 4,	Pages 2 & 30
November 5,	Pages 1 & 13
November 9,	Page 6
November 10,	Page 4
November 14,	Page 9
November 15,	Page 24
November 17,	Page 1
November 18,	Page 24
November 21,	Page 2
November 28,	Page 21
December 3,	Page 5
December 7,	Page 14
December 10,	Page 1
December 11,	Page 1
December 14,	Pages 8 & 21
December 16,	Page 15

New York Herald Tribune

1935

January 2,	Page 22
January 4,	Page 4
January 6,	Page 9
January 8,	Page 21
January 11,	Page 21
January 12,	Page 19
January 15,	Page 11
January 16,	Pages 2 & 33
January 20,	Page 2
January 25,	Page 34
January 29,	Page 22
February 7,	Page 2
February 10,	Page 21
February 12,	Page 2
February 13,	Page 2
March 8,	Page 10
March 12,	Page 5
March 14,	Pages 1 & 7

9. The Scholastic September 20, 1933 Page 15
October 7, 1933 Page 23

10. United States News

1933

July 15-22	
July 22-29	Page 9
September 16-22	Page 1
October 21-28	Page 5
November 27	Page 10

Guarnaccia

Section 7A of the NIRA as it affects American organized labor

DATE	ISSUED TO
11.25	Miss Reagan
8.20	Sempel
2.15	Edward Dixon
11.30	E "